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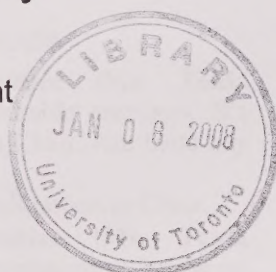
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ISSN 1180-436X

Legislative Assembly of Ontario

First Session, 39th Parliament



Official Report of Debates (Hansard)

Thursday 13 December 2007

**Standing committee on
the Legislative Assembly**

Organization

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Jeudi 13 décembre 2007

**Comité permanent de
l'Assemblée législative**

Organisation

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Thursday 13 December 2007

Jeudi 13 décembre 2007

The committee met at 1551 in committee room 1.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Tonia Grannum): Good afternoon, honourable members. It's my duty to call upon you to elect a Chair. Are there any nominations?

Mr. Joe Dickson: I move Bas Balkissoon as Chair.

The Clerk of the Committee (Ms. Tonia Grannum): Are there any other nominations? Seeing no further nominations, I declare Mr. Bas Balkissoon duly elected Chair of the committee.

ELECTION OF VICE-CHAIR

The Clerk of the Committee (Ms. Tonia Grannum): I am now called upon to elect the Vice-Chair. Are there any nominations for election of Vice-Chair?

Mr. Joe Dickson: I nominate Kevin Flynn.

The Clerk of the Committee (Ms. Tonia Grannum): Mr. Flynn, do you accept the nomination?

Mr. Kevin Daniel Flynn: I would love to do the job.

The Clerk of the Committee (Ms. Tonia Grannum): Are there any further nominations? Seeing none, I declare Mr. Flynn duly elected Vice-Chair of the

Legislative Assembly committee and ask him to take the chair, please.

APPOINTMENT OF SUBCOMMITTEE

The Vice-Chair (Mr. Kevin Daniel Flynn): Can we have a motion on the appointment to the subcommittee on committee business?

Mr. Phil McNeely: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as chair; Mr. Delaney; Mr. Miller; and Mr. Tabuns; and

That the presence of all members of the subcommittee is necessary to constitute a meeting.

The Vice-Chair (Mr. Kevin Daniel Flynn): Any discussion on the issue? Seeing none, all those in favour? Those opposed? That motion is carried.

More interesting reading—every member of the committee will have a resource binder that gives a history of the committee and some of the issues that have been dealt with in the past, just for your information.

Seeing no other business, this meeting is adjourned.

The committee adjourned at 1553.

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Mr. Mario Sergio (York West / York-Ouest L)

Mr. Peter Tabuns (Toronto–Danforth ND)

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Mr. Phil McNeely (Ottawa–Orléans L)

Clerk / Greffière

Ms. Tonia Grannum

Staff / Personnel

Mr. Avrum Fenson, research officer,
Research and Information Services



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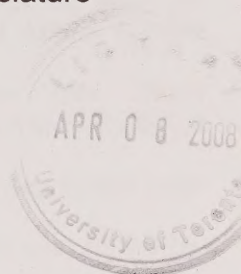
Committee business

Comité permanent de l'Assemblée législative

Travaux de comité

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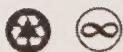
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THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 27 March 2008

Jeudi 27 mars 2008

The committee met at 1533 in room 1.

ASSIGNMENT OF MINISTRIES

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the standing committee on the Legislative Assembly. You have a draft committee report pursuant to standing order 109(b). I think the report is pretty simple and self-explanatory. Are there any questions, comments?

Mr. Peter Tabuns: Just because I'm not familiar—very simply, then, the standing committee on justice policy would have three departments removed from its jurisdiction. No? Then I don't understand.

Mr. Bas Balkissoon: One would be removed, one would be clarified, and one would be added.

Mr. Peter Tabuns: Got it. So democratic renewal is taken out.

The Chair (Mr. Bas Balkissoon): Right.

Mr. Peter Tabuns: The name is changed to Ministry of Aboriginal Affairs—Ministry of Government and Consumer Services. That's the full substance and weight of it. Man.

Interjection.

Mr. Peter Tabuns: Ferocious. I think there are clear left-right lines on this one.

The Chair (Mr. Bas Balkissoon): Further questions or comments?

Mr. Norm Miller: Just a question about how the ministry has been assigned. The Ministry of Aboriginal Affairs is assigned to the justice policy committee, but I assume that any issues to do with the Ministry of Aboriginal Affairs, not just justice policy issues, could be dealt with at that committee.

The Clerk of the Committee (Ms. Tonia Grannum): I'm sorry, what was the question?

Mr. Norm Miller: Why the justice policy committee? Why not the general government committee? Obviously, with aboriginal affairs, it's not just justice issues that you might be dealing with.

The Clerk of the Committee (Ms. Tonia Grannum): We're just keeping with the assignment of the ministries as they were previously. The office of aboriginal affairs was previously under the justice policy committee, so we're just keeping it there. We don't actually move anybody around. If they were assigned under a certain committee, we keep them there. Any issue

under aboriginal affairs could come under justice, but that's not to preclude the government from sending any issue to any other committee.

Mr. Norm Miller: In terms of balance, I see that the standing committee on general government has a long list of ministries assigned to it. So, if a bill was being put forward by the Ministry of Aboriginal Affairs, it could still go to another committee.

The Clerk of the Committee (Ms. Tonia Grannum): That's right. If its agenda was really full, it could be referred to any committee.

The Chair (Mr. Bas Balkissoon): Any further questions?

Mr. Bob Delaney: Are we going to vote on this before we adjourn the meeting?

The Chair (Mr. Bas Balkissoon): Absolutely.

Mr. Bob Delaney: Let's do the vote and put this issue to rest before I bring up the next point.

The Chair (Mr. Bas Balkissoon): I need a mover of the motion to adopt the report.

Mr. Bob Delaney: So moved.

The Chair (Mr. Bas Balkissoon): All in favour? Carried.

Does the committee agree that I present the report to the House? Agreed.

I have a couple of announcements for the committee. The National Conference of State Legislatures' annual summit will take place July 21-26 in New Orleans, Louisiana. It's called The Forum for America's Ideas. As I understand it, this committee will discuss this issue and make recommendations as to members of the committee who will attend this summit. We haven't received the official invite yet; we just know of it, so I'm making you aware of it so that you can give it consideration. We will discuss this at a further meeting.

Mrs. Laura Albanese: Do all the members of the committee usually get to go, or just the Chair? How does it work?

The Chair (Mr. Bas Balkissoon): My understanding is that several different things have happened in the past, so it's really up to the committee to make some suggestions. It would be up to the committee to notify the House leader of the committee's decision, as I understand it.

Mr. Bob Delaney: I had the opportunity to attend one of these—I think it was two years ago—and I found it extremely helpful. One finds that among your colleagues in

the States of all political persuasions—at the state and at the provincial level, we're facing much the same core issues, looking at a somewhat similar range of solutions, and it puts some of the deliberations that we take here in perspective. Many of the other provinces send extensive delegations. There is no equivalent in Canada, nor in my opinion should there be, because we shouldn't replicate this thing. We're in a much larger group of people; the issues touch us all. I found the exercise to be very, very helpful. If the committee members can see fit to go, I would strongly recommend it.

The Chair (Mr. Bas Balkissoon): I was just bringing it to your attention. We will have it on a future agenda, if you just want to make note of it.

The suggestion has been put to me that part of our mandate includes the Ombudsman's office. Since we have many new members of the Legislature, would you be interested in having the Ombudsman come to one of our meetings to give us a little bit of a presentation on his role and the role we would play in his work?

Mr. Norm Miller: Yes.

The Chair (Mr. Bas Balkissoon): We'll look at scheduling that.

As a suggestion—Mr. Fenson is the research analyst for our committee—we would spend some time at that particular meeting also getting a little bit of input into the work he can do for us and how it would help this committee, so I will also look after doing that at some future meeting.

Any other business?

Mr. Bob Delaney: I'd like to move that the committee schedule a meeting to reconsider a report on the use of technology in the precinct that it spent a fairly considerable length of time drafting in the 38th Parliament. Perhaps the members should look at the report and revisit the issue and determine whether or not we should adopt the report in whole or in part and recommend its adoption to the House during the 39th Parliament.

The Chair (Mr. Bas Balkissoon): I have a motion by Mr. Delaney. Any other comments?

Mr. Peter Tabuns: Just out of curiosity: Mr. Chair, you have the authority to bring items to this committee; you set the agenda. Is that correct?

The Clerk of the Committee (Ms. Tonia Grannum): Yes, he can.

The Chair (Mr. Bas Balkissoon): We have a sub-committee to work it out, just like any other committee—as long as it's within the purview, as outlined in the section.

Mr. Peter Tabuns: I don't have a problem with having a report come back to see if there's anything useful in it. No offence.

Mr. Norm Miller: This committee did spend a fair amount of time on the use of technology at the Legislature report a year and a half or two years ago. I think it would be worth revisiting that report to see if there are some parts of it that might be suggested for recommendation.

The Chair (Mr. Bas Balkissoon): The motion, as put by Mr. Delaney: All in favour? That carries. We'll have that at a future meeting.

That's all the business of the committee.

Ms. Sylvia Jones: Do we set the next meeting date now?

The Clerk of the Committee (Ms. Tonia Grannum): Is that the wish of the committee?

Ms. Sylvia Jones: Scheduling is easier if we have notice.

The Clerk of the Committee (Ms. Tonia Grannum): On what issue?

The Chair (Mr. Bas Balkissoon): It would be this item. The Ombudsman and Mr. Fenson would be separate.

The Clerk of the Committee (Ms. Tonia Grannum): The Chair would have to send a letter to invite the Ombudsman before us, so we'll have to wait to see what his schedule is, as well.

The Chair (Mr. Bas Balkissoon): The technology report is the only one we can deal with ASAP. Why don't we leave it up to the Chair to pick a date and then notify everyone, because we'll have to look at every other committee's schedule.

Thank you very much. We're adjourned.

The committee adjourned at 1543.

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Standing committee on the Legislative Assembly

Ombudsman Ontario

Comité permanent de l'Assemblée législative

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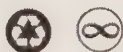
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Thursday 10 April 2008

Jeudi 10 avril 2008

The committee met at 1608 in committee room 1, following a closed session.

OMBUDSMAN ONTARIO

The Chair (Mr. Bas Balkissoon): Mr. Marin, thank you very much for taking the opportunity to come and present to us, as the committee has invited you. If you could just introduce yourself and those accompanying you for the record.

Mr. André Marin: Thank you very much. I'm accompanied this afternoon by Wendy Ray, who is the deputy Ombudsman and also senior counsel at our office.

Thank you for inviting me and giving me the opportunity to talk about the relationship between my office and the Legislative Assembly. I see many new faces on this committee, and I trust this will be, as Humphrey Bogart said to Claude Rains, "the beginning of a beautiful friendship."

In fact, the relationship between our two institutions doesn't go back quite as far as Casablanca, but it does go back to the 1970s. It was the era of flower power and power to the people, and one of the lasting benefits was the flowering of Ombudsmen's offices across Canada.

In Ontario, the office of the Ombudsman was established in 1975 by the Bill Davis government. The first Ombudsman was Arthur Maloney, and he made an indelible mark, setting in place a vision that our office strives to embody every day. He believed that the Ombudsman should be a force to humanize government and to guide citizens through what he called "the increasingly complex labyrinth of government."

Let me remind you that what he said was in 1975. At that time, the Ontario government's entire budget was only \$12.5 billion, and there were only 70,000 public servants. Budgets and bureaucracy have now mushroomed to the point that, for the average person, the complex labyrinth of Mr. Maloney's era has become a massive and almost impenetrable maze today.

As the size of government has grown, so, I believe, has the need for the Ombudsman. But the principles our office stands for have actually changed very little in the 200 years since the first parliamentary Ombudsman was created in Sweden in 1809. The foundation of ombudsmanry rests on four pillars: independence, impartiality, confidentiality and a credible investigative process. When he was sworn in as the first Ombudsman, Arthur

Maloney told the Legislative Assembly of the day that he viewed every MPP as an ombudsman in his or her own right. Each of you, like me, is a conduit for citizens to access the corridors of power and a powerful voice for those who, on their own, might never be heard.

While MPPs must also do their work within the party system and be guided by a government agenda, the Ombudsman's one and only loyalty is to the public interest. The Ombudsman's primary concern is fairness; he does not advocate for the citizens against the government, for example, but investigates and delivers opinions on whether or not the government's behaviour was unjust, oppressive, unfair or just plain wrong. He recommends ways to rectify problems and make things better, which the government is free to accept—or not.

So, despite the existence of robust investigative tools, the ultimate power of the Ombudsman is only to make a recommendation and to use moral suasion to get it implemented. In theory, it might not look like this kind of intervention could produce any concrete results. The practice over the last 33 years, however, demonstrates quite the opposite: The Ombudsman's work has been a potent agent of change.

As you may know, since I became Ontario's sixth Ombudsman three years ago, I have focused on using our office's resources in ways that will help the greatest number of Ontarians with issues of great public interest. We deal with complaints in two ways. We handle more than 20,000 individual calls a year and resolve the majority of those through what I call shuttle diplomacy—a few phone calls to cut through the red tape are usually all it takes to get results, without the need for a major investigation. Then there are the systemic cases, where we might have dozens or even hundreds of complaints about a broad problem of significant public interest. These are the subject of field investigations by the special unit I created called the special Ombudsman response team, or SORT, essentially the SWAT team of the Ombudsman's office. This is the team whose investigations in the past three years have prompted the sweeping government reforms you're all aware of.

First, special-needs children in residential care were returned to their parents' custody. Another example was newborn screening, where the testing was increased from just two potentially fatal disorders to 29. The property tax system was overhauled, as were the Criminal Injuries Compensation Board, OHIP's out-of-country program

and the lottery system, to name just a few.

In all of these cases, and in every major case that SORT has undertaken, the government has accepted all of our recommendations. These are changes that affect Ontarians in just about every area of their lives, be they new parents, property owners or lottery players. It's fair to say that millions of people have been helped by the changes the government made, brought about by a few dozen or a few hundred complaints to us.

The remarkable powers of investigation enjoyed by my office are set out in the Ombudsman Act, including the power to subpoena witnesses and the requirement that government bodies must co-operate with my investigations. The act allows me to report my findings annually and through special reports as I see fit, and those reports are public. The reporting ability is key to my exercise of moral suasion.

Just so you understand the process, in an Ombudsman investigation we inform the affected ministry or agency of our intent to investigate. When our preliminary report is completed, we send it to the ministry and give them a chance to respond to our findings and recommendations. Based on their response and the issue at hand, I may or may not issue a final report. When I do, that report is tabled with the Legislature and made public.

When I release a major report, I have made it a practice to meet or contact all three political party leaders so that everyone knows what to expect and everyone is on a level playing field. I know that this has been appreciated by all leaders, and I am confident from my conversations and correspondence with all of them that they truly understand the value of the work that our independent, non-partisan office is doing for all Ontarians. I know that MPPs from all three parties also understand the value of referring constituents to our office when they run into a problem within the bureaucracy or a government agency.

This positive attitude from parliamentarians is an essential ingredient in our office's recipe for success. As I said in my last annual report and intend to reiterate in the next one in June, we have only been able to achieve the successes we have because of the co-operation of government. It has been astute enough to know when our criticisms are right, humble enough to admit when it has been wrong and generous enough in spirit to work with us in forging solutions to the problems we have identified. This is a testament to this province's commitment to our democratic tradition.

This year in particular has been a remarkable one for our office's relationship with the government and Legislative Assembly. Four months ago, we hosted a training program for administrative investigators from Ombudsman offices across Canada and around the world. We were delighted when the Premier came to our reception. As far as he and I are aware, it was the first time a sitting Premier has ever visited the Office of the Ombudsman in its history. Not only did the Premier speak to the guests about the importance of our investigations to improving his government's work, but at the same training course we also had the then secretary of cabinet, Mr. Tony

Dean, address participants about how it feels to find yourself at the other end of the Ombudsman's telescope.

Mr. Dean's message was an important and very constructive one, and I'd like to leave you with it today. He simply reminded us of our common goal as public servants. Although you are elected MPPs, I am an independent officer of the Legislature, and bureaucrats are employees of the government. We are all public servants, and we are all here because, fundamentally, we believe that government can be a source of help for people, not a hindrance.

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More than that, all Ontario citizens expect our government to treat us fairly in our own dealings with it, and we wouldn't do what we do if we didn't believe our public service can make a positive difference. I look forward to working with all of you in the next couple of years with that in mind.

The Chair (Mr. Bas Balkissoon): Thank you very much. Questions, comments?

Mr. Norm Miller: First of all, thank you very much for coming today and reporting. You've certainly been very busy with lots of reports and have been very proactive.

I'll start out with just a specific question. You did the report A Test of Wills, I think it was called. It had to do with the case of Richard Wills and how \$1 million was paid for as an expense through legal aid. You made recommendations. As I understand, the government has put into place a protocol to deal with this situation, but in fact you were recommending legislative changes. Can you explain why legislative changes are needed versus just the protocol that the government has put in place?

Mr. André Marin: The problem with protocol is that it's not a legally binding document. As personnel change, as ministers, senior leaders and management change in the bureaucracy, they're not necessarily bound by it, nor are defence lawyers, nor is the judiciary. A protocol is an interesting step forward. It's not a bad thing, but it doesn't have the kind of backbone that you need to prevent another Richard Wills from working the system.

In the case of Wills that we investigated, the defence lawyer specifically disregarded, in that case, certain aspects of practice and procedure which were in place at legal aid, recognizing that it's just a difference of opinion. In my opinion, another protocol wouldn't necessarily bind a similar defence lawyer in the future, whereas legislation has the heft, authority and binding aspect to it that a protocol doesn't. That would be a definite way to nip it in the bud.

Mr. Norm Miller: So in a case like that, where you have made a recommendation that there be legislative changes, they've gone part way and improved things but not necessarily done what you wanted. Do you revisit the situation a year down the road and make another report? Even in something like, for example, your MPAC report, which you spent a lot of time on and made 25 recommendations and the government's acted on a few of those, at least, do you at some point in the future come

back and note what has been done and what hasn't been done?

Mr. André Marin: Absolutely. We monitor responses and the implementation of recommendations. The protocol implementation as a result of the Wills case, as I've said, is not a rejection of the implementation of the recommendation; it's just not necessarily the full measure. So we'll leave it at that. We'll continue to monitor it. These are cases where I hope I'm wrong, but if we're not we'll remind the government that they did not adopt proper legislation.

It's customary for us, when we complete a field investigation, to recommend to the government that every three or four months they report to us what they've done to further the issue. One of the best examples is the case of lotteries, where every three months they report to us exactly what they've done. It allows us to gauge whether or not they're just paying lip service to the recommendation or whether they're in fact implementing it. In the case of the OLG, I was very happy to see that some extremely important cultural and systemic changes have happened as a result of the report.

Mr. Norm Miller: You had been looking for jurisdiction over the children's aid society. As far as I understand, there are eight provinces that do have their Ombudsman have jurisdiction over the CAS. Can you explain why you want to have jurisdiction over the CAS?

Mr. André Marin: Yes. The CAS is part of what we refer to as the MUSH sector—municipalities, universities, school boards, hospitals, long-term care, children's aid societies—where Ontario provides no independent oversight of the kind afforded by most provinces. In the case of hospitals, we're the only Ombudsman's office with no jurisdiction over the hospital field. Quebec gave their Ombudsman jurisdiction a few years ago. The last one to join the group was Alberta.

The children's aid societies are another example, spending enormous amounts of public funds with no independent avenue of complaint for those who are not happy with the system. It's an area where we're lagging behind other provinces. And again, the government never gave us an absolute rejection of our submission. It's more a "Let's wait and see" kind of approach. So I think that eventually we'll give it, whether it's within the next year, two or 10 years, but these are areas that are absolutely wanting in oversight.

Mr. Norm Miller: Certainly, that's been my experience as an MPP with the children's aid society. We get quite a few cases coming into our constituency office to do with the children's aid society, and as an MPP, we're more or less powerless to do anything for them. So certainly that's something that I support.

Mr. André Marin: The Auditor General's mandate was expanded in a lot of these areas, such as hospitals and CASs, a few years ago, and that would have been the logical time to extend our mandate as well, but it wasn't done. The Auditor General has had audits of the CAS that were made public, showing the kinds of abuses and

lack of diligence, and he's now conducting audits of hospitals. It's an area that absolutely needs closer scrutiny.

Mr. Norm Miller: Thank you. I think Sylvia has—

The Chair (Mr. Bas Balkissoon): I have Mr. Flynn, and then I'll come back to you.

Mr. Kevin Daniel Flynn: Mr. Marin, thank you for the presentation. I thought it was very thorough and I enjoyed it.

In number 16, you said, "This year in particular has been a remarkable one for our office's relationship with the government and Legislative Assembly." I'm assuming you meant that in a positive sense?

Mr. André Marin: Absolutely.

Mr. Kevin Daniel Flynn: Okay. That's good. Now, what is different? You go on in the rest of point 16 and the rest of point 17 to use an example of the Premier visiting, and a conversation and a presentation by Mr. Dean. But I'm sure there would be other things that weren't included into those two points. Has it been remarkable in that you are seeing some action on your recommendations or the relationship or—

Mr. André Marin: We have found that, whereas on the jurisdictional issue the government has been not very receptive to modernizing and updating oversight, on the actual response to recommendations, the government has been extremely responsive. I can think of the last budget, for example, where the reverse onus in the case of MPAC was addressed. That was a long-standing recommendation by this office.

The reforms on the lottery front: Something like half of senior management at the OLG was replaced following our report. Right now, buying a lottery ticket is a very different experience than it was before, and there are many more changes that are coming forward to strengthen the security of the lottery system as a result of our recommendations.

So it's been a very positive experience dealing with the government, but it has also been a very positive experience dealing with the opposition leaders, who have been very supportive of the office and with whom I entertain a very close rapport.

All in all, I think the system is working the way it should. From an Ombudsman perspective, I'm not looking for new powers. We have all the powers we can dream of. What I'm looking for is a new area in which to exercise them. In the MUSH sector, if you look at issues regarding long-term care, for example, every few months it explodes in the media: There's another scandal involving long-term care; hospitals are being taken over by the government. It tells me that there are issues out there that are not being proactively addressed. That's one of the reasons why our office has been supportive of expanded oversight ability over those bodies.

Mr. Kevin Daniel Flynn: Thank you. In a comparison of jurisdictions throughout Canada, we use the other provinces, and I think you pointed out that we're one of the few provinces that does not give you oversight powers with the children's aid societies, for example. When you make those types of comparisons, do you also

compare the outcomes, what it means to the average person in those provinces in terms of perhaps cost, in terms of results, in terms of citizens being happier in Manitoba, for example, because the Ombudsman there has powers? Do you actually do that level of analysis, or is it just an assumption that, "If I had those powers, I could do a better job than I'm doing now"?

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Mr. André Marin: No, we don't look at the experience in other provinces, but what we do look at is the number of complaints we have every year dealing with these sectors, and they're in the hundreds. These are complaints that come in despite the fact that we have no jurisdiction in this area.

Let me share with you a couple of examples. You'll see this appearing in our annual report shortly. But we have just under 2,000 complaints that fall under the MUSH sector every year. It's important, because every time you use a number, the retort I get is, "Well, that's 2,000, but how many people visit a hospital per year? It's a million people, so that's not a lot." There's not a lot you can read into the numbers except to say that the fact that we don't have jurisdiction—everybody knows there's no recourse. We don't advertise it and we don't pursue these complaints, and we still get 2,000. The nature of those complaints is very serious as well. It tells me that there's demand, a thirst for oversight among Ontarians in these areas. Unfortunately, we can't provide it right now.

Mr. Kevin Daniel Flynn: The next question is theoretical; it's not based on any experience. But in point 5 you said the foundation of your profession "rests on four pillars: independence, impartiality, confidentiality and a credible investigative process." In your daily employment, how do the people of Ontario know that they have a good Ombudsman? This is not aimed at you personally, by the way. That's why I opened saying it's theoretical. Where's the checkpoint in the system?

Mr. André Marin: Yes, it's a very good question. I think it's the degree to which the Ombudsman can be an agent of change in the system. That, I think, is the ultimate test of the effectiveness of an Ombudsman. It's the extent to which you can demonstrate your value as an agent of change.

Mr. Kevin Daniel Flynn: At each point in our own careers, I think, as politicians or as public servants, every so often we stop and just take account of what we've done. Sometimes that's done by an annual employment review. In your term, which I understand is five years, is there an annual review? Is there an audit done of the office? Do you do that to yourself? Is it a self-investigative process, or do you do that every five years and hope you've done a good job and hope there's a renewal?

Mr. André Marin: In the world of Ombudsmen, you want accountability, you want responsibility, but you also want to provide the office with independence. The way the Ombudsman Act of Ontario provides that is that we are audited on a yearly basis by the Auditor General. Our finances are audited that way. My recommendations are

not binding, of course, so if the government doesn't agree with the substance of my work, they can reject it. Ultimately, I'm accountable to members of the Legislative Assembly and to the public for the way I approach any given complaint and issues that may present themselves. Those are the levels of accountability.

Mr. Kevin Daniel Flynn: Now, is that accountability through the Speaker's office?

Mr. André Marin: Yes.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. Bas Balkissoon): Ms. Jones.

Ms. Sylvia Jones: As a new member, I'm finding this very helpful, so thank you for appearing.

I wanted to go back to your report, *A Test of Wills*. You made reference to the fact that the Attorney General's office has been following up with you and they are putting protocols in place. Has there been any commitment or discussion about whether they will actually bring forward the changes in the legislation that you were suggesting?

Mr. André Marin: No. The response by the government was, "Well, let's adopt a protocol and wait and see whether that deals with the issue."

Ms. Sylvia Jones: If I could go back in your speaking notes, you reference about 20,000 calls a year?

Mr. André Marin: Yes.

Ms. Sylvia Jones: Of those, how many would fall under areas that you do not have the jurisdiction to investigate?

Mr. André Marin: About 10%.

Ms. Sylvia Jones: If you had a wish list for expanding your investigative powers, where would you go first?

Mr. André Marin: Out of the MUSH sector, I think the one that's—it's hard to choose. The CAS with children who are vulnerable and under the care of a third party versus hospitals, long-term care—it's very hard. I'm often asked that question, but I think the area that's the ripest for oversight is the area of hospitals, because we are clearly the only province in Canada that doesn't provide it. The budget that's handed over to hospitals is something like \$30 billion—a huge amount of money. In the last year, the government has taken over administration of a record number of hospitals, showing that the government obviously has an issue with the way hospitals are run. So to me, this is a very ripe area where oversight is long overdue.

Ms. Sylvia Jones: I noticed that you used the opportunity, once the government took over the William Osler Health Centre, to use your jurisdiction and investigate. I'm not sure how long your average investigation takes, but using the scenario of the government stepping out before your investigation is complete, what happens in that situation?

Mr. André Marin: I'm sorry, what do you mean?

Ms. Sylvia Jones: They have now taken over operating it.

Mr. André Marin: Yes.

Ms. Sylvia Jones: What if they turn it back over to the hospital board next month? Would that mean your inves-

tigation would have to cease, even though it started previously?

Mr. André Marin: No. Once the investigation begins, we're seized of the matter and we would pursue it.

Ms. Sylvia Jones: How long is your average investigation?

Mr. André Marin: Some of them are a matter of hours, if they require a few phone calls to turn the matter around.

Ms. Sylvia Jones: I'm thinking more in terms of the ones where you issue reports.

Mr. André Marin: Field investigations?

Ms. Sylvia Jones: Yes.

Mr. André Marin: They're normally done within a month or two. Some of them are a little more complicated. Right now, we're investigating PET scans in Ontario. That has been outstanding since September, because it's a very delicate, complicated investigation where we need to ramp up our knowledge of the issues involved and make sure we're on the correct path. Those take a little longer. But normally, investigations are measured in a matter of weeks or a couple of months.

Ms. Sylvia Jones: Can you explain to the committee a little bit about which investigations you proceed with? I'm thinking in terms of my colleague from Haliburton-Victoria-Brock, who mentioned to me that her municipality has asked for an investigation of the Best Start program. They were the only ones who didn't get funding when everyone else across the province did: a pretty narrow focus in terms of your investigative powers, so the numbers wouldn't necessarily encourage your office to look at it, and yet very important to a small sector of the province. How do you make your judgment calls on which ones get more detailed investigation?

Mr. André Marin: There are two levels of assessment. First, we're not there to dictate issues of broad public policy to the government. We're there for mechanics. We're the oil in the machinery. We can't be dictating to the government how to resolve big, broad issues of public policy. So if our complaint deals with that, we won't be doing it because we're not elected representatives and it's not part of our function to do that.

If the matter falls into an issue of mechanics, such as in the case of Richard Wills—we've been talking about it—we don't dictate to the government how legal aid should be set up. But once they've set it up, we're going to be pointing out how the way they've set it up is missing the mark. That's the distinction.

Once we've identified that it's a mechanical issue and not one of broad public policy, before we launch a field investigation—first of all, I want to say at the outset that it's not perfect science. It's revolves around an issue of discretion and judgment. That discretion and judgement are exercised based on the following points: The issue generally has to be one that shuttle diplomacy has proven unable to resolve or one that would not look like it's proper to be resolved through shuttle diplomacy. Another criterion would be the seriousness of the allegation. Another would be the strength of the case; is it a strong

complaint on the face of it? Another one would be the nature of the injustice.

We weigh all these factors together. We have a discussion in our office and decide where we're going to be focusing our money. Like I said, it's not an exact science. It very much has to do with a call based on discretion. If you look at past cases we've done, the lotteries—who is Ontario hasn't played the lottery system? Okay, maybe a few people, but it's widely, widely played. We depend on the revenues of lotteries to sustain our infrastructure. Confidence in the lotteries is what inspires people to buy the tickets. The response given by the OLG at the time was to blame the people purchasing tickets and not accept responsibility. It had spent almost half a million dollars fighting an 82-year-old man over \$200,000 of winnings. When you add it all up, it's an area that demonstrated that it needed a sharp intervention, on the face of it. History demonstrated, in the end, that it did require it. So those are the kinds of things.

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In the case of Richard Wills, the very nature of defrauding a legal aid system, where if you make more than \$29,000 you're disqualified, and you have a millionaire who impoverishes himself and then has the province pick up a million-dollar defence tab, we weigh this inside our office and we decide which ones are really worth the punch or the impact, bearing in mind the finite resources we have access to.

The Chair (Mr. Bas Balkissoon): Mr. Levac.

Mr. Dave Levac: Thank you, Mr. Chairman, for the opportunity to question Mr. Marin. Merci beaucoup.

I want to start by saying thank you very much for the process that you've implemented in dealing with members when they are encouraging their citizenry to use the Ombudsman and clarifying when it's appropriate and when it's not. I have to compliment you on that, because that really has helped in making sure people understand exactly what you just went through, which is, what is your job and when can you get involved or when should you get involved? Further to that, I would also thank you for keeping in touch, to ensure that there's a flow of information back and forth as to when you might pull the trigger. That's been very valuable and helpful for my citizens.

I do want to ask you whether or not this is opinion or an assumption that you're making in your bullet number 7. I'm a little concerned if it's an assumption, so I'd like to maybe get you to clarify it.

When you say, "While MPPs must also do their work within the party system and guided by a government agenda," is there an assumption there that the MPP would not fight on behalf of the citizenry when they do refer citizens to the Ombudsman, or when they do work on their behalf? Do you see where I'm coming from?

Mr. André Marin: Yes, absolutely.

Mr. Dave Levac: I might be misreading this.

Mr. André Marin: Yes. I think the suggestion here is that there are constraints put on MPPs by party discipline and by the very nature of the system, which constraints

don't seize the Ombudsman's office. Certainly, there was absolutely no suggestion that as MPPs you would not be pursuing the right thing. It's simply that there are constraints by the very nature of the political system under which we operate.

Mr. Dave Levac: Okay, I'll consider it an assumption that I wouldn't use the Ombudsman as a tool to get those citizens the rights they deserve, because I would not do that to a constituent of mine who deserved the right of the Ombudsman in a bureaucracy where that's being done.

Mr. André Marin: No, I think this is meant as a broader policy agenda. It's not in terms of accessing the office. I absolutely accept what you say and we agree on that.

Mr. Dave Levac: That's good. It was a little concerning for me, simply because I have a lot of letters and recommendations to constituents to use your office.

Mr. André Marin: Absolutely. I encourage parliamentarians of all backgrounds, in all instances, to refer cases to us. Actually, every time an MPP writes to me concerning a constituent, that letter is brought to my attention. The question is, "Why won't you see every letter, every complaint?" Because we have 20,000. It wouldn't be workable. But every time a case is referred to me by an MPP, I will personally, take notice of that complaint.

Mr. Dave Levac: I would add to that as well that there are also circumstances in which we guide our constituents to you, as opposed to us doing it on their behalf. We tell our constituents, on a regular basis, "I think this one would get further, faster, if you went to the Ombudsman." So there's also that piece of the puzzle that you should be made aware of, if you didn't know that was happening from this side.

Mr. André Marin: We thank you for that.

Mr. Dave Levac: Quite frankly, it is an effective tool, just to let you know. It also shows the constituency that if they feel compelled to think that a ministry might not be listening to them, even after they've used their MPP to try to open a door, there's another channel to open and there's another opportunity for us to take care of that circumstance.

Are you aware that there are other ombudsmen in the province who have been assigned to take care of other of the MUSH—for instance, the creation of an ombudsman for long-term-care homes, a children's ombudsman, a children's advocate lawyer, those types of things—and their purpose might be that we're trying to make sure that we get the balance specific?

Mr. André Marin: Yes, I'm aware of those different positions. Some hospitals have set up their own ombudsman as well. They refer to them as the patient care advocate and so on. But although they may wear the title and have the position formally assigned to them, they don't enjoy the kind of investigative tools and independence and impartiality that this office enjoys.

The child advocate is an entirely different beast in the sense that the child advocate is an advocate. It is not an independent investigator who's impartial; it's someone

who's in charge of speaking out on behalf of children. My job is not to speak out on behalf of anybody; it is to investigate and impartially decide.

To come back to your point, I don't think those are bad things. It's not a bad thing to have patient care advocates, child advocates and so on, but they're not the real thing and they shouldn't be mistaken for the real thing. Sometimes when you add up all the money that's being spent on all these different offices that don't have the investigative tools, you think that for a fraction of that amount, you could actually have the Ombudsman provide the same kind of oversight we provide for the rest of the government.

Mr. Dave Levac: That's not bad. I can understand the position that you're taking in terms of the independence. That's the key point here.

In terms of the investigative power, in addition to that, you're suggesting that because of that component as well, it would make it easier for the Ombudsman to drill down, in your report, and find out where the flaw was?

Mr. André Marin: Absolutely. The typical thing when we get involved in an investigation is that we send a section 18. If you look under our act, section 18 of the act is when we're formally telling a government agency or ministry that our jurisdiction is now engaged. When we send a section 18 notice, we accompany it with what we refer to in our office as a "wish list" letter. The wish list letter tells the government body what we expect of them in terms of documents, information and interviews, and it gives them deadlines. The reason why all that works and it all happens and we get that co-operation is because we're backed up by the potent investigative tools in our act: the right to subpoena and call hearings. It's a lot easier to come in politely when you carry a big stick in your back pocket, a stick which we've never used. At least I've never used it, because there's never been a need to use it.

Whereas if you're a patient care advocate working for a hospital, in the hospital bureaucracy, and you claim to come and investigate the head of a medical department, good luck in trying to get access to anything. Good luck in publishing a report that could be embarrassing to the hospital. It's not the same level at all as the intervention that we could provide.

Mr. Dave Levac: I appreciate your response.

Finally, would you be adverse to coming to this committee when doing your reports?

Mr. André Marin: Absolutely not. I would be more than honoured to come here and share our findings with the committee.

Mr. Dave Levac: To you and your entire staff, thank you.

Mr. Bob Delaney: Mr. Marin, I'm glad to see you again. You and I go back in our relationship a few years. Welcome back.

Mr. André Marin: Thank you, sir.

Mr. Shafiq Qaadri: Like in Casablanca.

Mr. Bob Delaney: That's right. I'm not sure if I could call it a beautiful friendship; I haven't had a chance to know you quite that well.

I want to pick up where Mr. Levac left off. You've made a number of what I would call assertions, some of which I'm not entirely comfortable with. You talk particularly about the hospital sector, referring in general to the patient care advocate, whatever that function may be called if it exists at any particular hospital. You've suggested that they lack the impartiality that you have, the investigative tools that you have. On what basis have you made these assertions?

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Mr. André Marin: We were contacted once by a patient advocate for a hospital—

Mr. Bob Delaney: Once?

Mr. André Marin: Yes. We were once contacted by a patient care advocate who indicated that she was the ombudsman for a particular hospital, and when I looked at the framework under which she operated, it had none of the safeguards, none of the investigative tools and certainly none of the public reporting that our office offers—and that's one of the rare hospitals that actually had one. I'm not aware of any structured, independent oversight agency for hospitals in this province.

Mr. Bob Delaney: There are 155 hospitals in Ontario. Have you done a reasonable survey of any statistically significant fraction of them?

Mr. André Marin: No. I know that we get hundreds of complaints concerning hospitals that we can't address, and we have no other independent body to send them to.

Mr. Bob Delaney: You make a statement—I'm not sure whether this is a typographical error in your statement to us—referring to the situation some 35 years ago. You say that at that time “there were only about 70,000 public servants.” The last estimate I read of the Ontario public service today is that it employs some 60,000 people. You make the assertion that the public service has grown dramatically since 35 years ago. I'm not quite sure where the numbers come from.

Mr. André Marin: The whole public service being 60,000 employees?

Mr. Bob Delaney: I understand that the size of the Ontario public service today is some 60,000 people.

Mr. André Marin: We oversee something like 400-and-something different bodies, from the OLG to MPAC to every single ministry. I can get you a number if you'd like, but I think that it's fair game that the number would be much more considerable than 60,000 today.

Mr. Bob Delaney: I'd just bring that to your attention. You mentioned earlier, as well, that you are accountable to the public. In what specific way or with what specific mechanism are you accountable to the public?

Mr. André Marin: We need public confidence and credibility to do our job, and if we don't have that, we will not be able to do it effectively because the public will not have confidence in our processes and in our investigations. So we're accountable in that sense.

Mr. Bob Delaney: When you refer to confidence, what does confidence mean, from your perspective?

Mr. André Marin: The ability of members of the public to know that when they complain, they can trust that the system is operating the way it should; that complaints are investigated independently, impartially; that the Ombudsman makes calls without fear or favour, those calls being whether the matter under investigation is unfair, unjust, oppressive or just plain wrong. That is what I'm referring to.

Mr. Bob Delaney: Would you view results, in this case, pertaining to confidence as resolving the issue or being perceived in an adversarial relationship to the body that you investigate?

Mr. André Marin: Resolving issues, of course.

Mr. Bob Delaney: That's all I have for this round.

Mr. Norm Miller: Today you've started an investigation into access to positron emission tomography scans. Is that under your jurisdiction? I thought health care wasn't under your jurisdiction.

Mr. André Marin: What we're investigating is the Ministry of Health and Long-Term Care's funding of PET scans. Because that's a provincial ministry issue, we can investigate that. What we often cannot investigate is the implementation of those policies. So if the government says, “We're going to fund PET scans, we're going to pay for them,” we can't investigate how a particular hospital actually conducts them, which is often the irony in the work we do.

We can investigate how the Ministry of Children and Youth Services deals with CASs, but we can't investigate CASs. We can't follow the service into the hand of the person getting the service. That's a distinction. We can investigate the Ministry of Education's zero tolerance for violence in schools, but we can't investigate how schools are abiding by that policy or how they're applying it. When you think about it, you can oversee the bureaucrat in a building in Toronto, but you can't investigate how the service going right through their backyards is actually affecting Ontarians. That's the disconnect that's unfortunate.

PET scan funding is clearly a ministry issue, and because of that we can and have been investigating since September 7, 2007.

Mr. Norm Miller: Did you get many complaints about access to PET scans?

Mr. André Marin: We got 28 of them, several from physicians, and because of the nature of the complaints, we thought it was sufficiently compelling to take a closer look at that issue.

Mr. Norm Miller: When do you expect to have that report done?

Mr. André Marin: We expect to have it completed by early summer.

Mr. Norm Miller: Switching to another topic, in terms of the budgeting and staffing of your office, are you adequately staffed? Do you have a sufficient budget? Has it changed much in the last few years?

Mr. André Marin: Interestingly enough, when the

office was set up in 1975, there were 123 MPPs and 123 members of the Ombudsman's office. I've heard, at least anecdotally, that the Ombudsman at the time had wanted one staff member for every MPP. Right now, we're staffed at 89. If you look at the government numbers, the entire budget of the government was \$12 billion. Now we spend \$35 billion on health care alone.

Government has grown by leaps and bounds while the office has actually shrunk from 123 to 89, but we manage within that envelope. Would we want more money, like everybody else? Yes, but we're able to achieve what we achieve based on yearly small adjustments for salary and collective agreement obligations. We haven't received any new money for the office in many years.

Mr. Norm Miller: You mean it's been flatlined?

Mr. André Marin: Flat.

Mr. Norm Miller: What process do you go through to try to increase—

Mr. André Marin: Every year we present a business plan to the Board of Internal Economy and every year we get the opposition's support and the government opposes it.

Mr. Norm Miller: Why do you think the government's not supporting you on that?

Mr. André Marin: I don't have any further comment. But that's the process we go through.

That said, we operate within our budget. I'm reporting back to the Board of Internal Economy next week. That's why we have to be selective in the cases we proceed with. We have to exercise discretion and we have to pick the battles carefully to make sure that there's a systemic difference at the end of the day, so that we can maximize our efforts.

Mr. Norm Miller: What is your total budget?

Mr. André Marin: For last year, it was \$9.7 million. The estimates for 2008-09 will be \$10,030,000, which represents simply an increment to deal with the collective agreement obligations of the office and not any request for money this year.

Mr. Dave Levac: A topic that was brought up was the PET scans. I just have to ask this for clarity because I'm not an expert in the field. I do understand that this is a trial—what would you call it, a field study?—in terms of experiments in the use of PET scans. Is that a fact, and if that's the case, would that affect the application of your investigation?

Mr. André Marin: There are two areas we're investigating. One is the area you've mentioned, in that some people are getting access to free PET scans—those who fall under clinical trials. Some of the issues that we're looking at are, how are people selected to undergo PET scans under these clinical trials and who is eligible? Those kinds of questions.

The second question is one of process. Most Canadian provinces and the US and Europe have settled that the PET scan is a necessary diagnostic tool. In Ontario, we take the position that it requires further study. So we'll be looking at, how much more study do you require until you're able to make that decision? To what extent do you

require to reinvent the wheel—because that's a very live issue that's out there.

The third aspect, of course, is the broader picture of where this diagnostic tool fits in the Ministry of Health and the affordability of this tool. Those are the aspects and issues that we're looking at right now.

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Mr. Dave Levac: Within that study, then, you would use some science or experts in the field—not to employ them but to garner their expertise as to, if you're in the middle of a clinical study, your question would be not if there's more after that. You wouldn't expect them to stop a clinical trial because other provinces have already used it?

Mr. André Marin: No, absolutely not.

Mr. Dave Levac: I just want to make sure I'm clear, when it got brought up, as to whether or not—I needed to know the scope of what you were talking about in order to do that.

The second component to that sparks the next question. As you've described it, you would be investigating the overarching scope of the use of PET scans with studies of how they're applied elsewhere?

Mr. André Marin: Yes.

Mr. Dave Levac: And inside of that, the appropriateness of how the PET scan study is being conducted, the people who are used to help with that study and the individuals who are being scanned?

Mr. André Marin: It would be the accessibility. Some people want to be part of the trial so they can have free PET scanning. Other people are chosen for it.

Mr. Dave Levac: Which we would all want.

Mr. André Marin: Yes.

Mr. Dave Levac: But having said that, that's the scope of this test, as opposed to telling governments, "Yes, you have to use PET scans." It goes back to your other statement, in another answer, about differentiating between telling governments what they should and shouldn't do or fund versus the application, "and here are the parameters." That's what you're looking at?

Mr. André Marin: That's right. The issues of broad public policy are not issues that I, as Ombudsman, consider. I consider the mechanics: once a policy has been adopted, how it's carried through.

Mr. Dave Levac: Gotcha. That's good. My thanks for the clarity.

Ms. Sylvia Jones: Again, you'll have to forgive me because I am new to this game. I understand that part of your report last year dealt with some issues or concerns you had with children's aid societies and, for lack of a better word, their allotment of money. I'm now reading some of those individual children's aid society reports. Many of them make reference to your report and how they're dealing with it. In some cases, I'm seeing things where they have chosen not to act on the recommendations. I'm wondering what your follow-up is or can be within your office when you start to see, I guess, for lack of a better word, lack of action.

Mr. André Marin: We don't have jurisdiction over children's aid societies, Mr. Chair, so we have not produced a report. I'm not sure if you're referring to the Auditor General's report.

Ms. Sylvia Jones: Oh, that's it.

Mr. André Marin: Yes, I think you may be referring to that. We had a report on special-needs children, looking at the angle through the Ministry of Children and Youth Services, but not the direct CASSs.

Ms. Sylvia Jones: Okay.

My other question relates back to William Osler. You did decide to investigate that in January, if I'm not mistaken. Not that I'm trying to presuppose what you are going to do, but have you made any decisions on whether you will be doing a separate report on the William Osler centre?

Mr. André Marin: At this stage, I do not anticipate producing a report based on what we have seen so far.

Ms. Sylvia Jones: Thank you.

Mr. Bob Delaney: Mr. Marin, in your discussion on your budget and your staffing, given the scope of the investigations that you do, to what degree would you employ or retain outsiders, consultants or specialists in the circumstances?

Mr. André Marin: It happens from time to time, but it's relatively rare. We did in the case of the OLG, for example, because the CBC had a statistician saying one thing and the OLG had another one saying something else. So we figured, heck, we might as well get our own too. We had the battle of the statisticians. Maybe we should have hired you. I think you have a background in—

Mr. Bob Delaney: I used to teach it at Ryerson.

Mr. André Marin: There you go. If you weren't an MPP, maybe we would have hired you as well.

So it happens from time to time, but generally we don't have to pay for expertise. People are quite happy, in their respective fields, to come and supply us with the necessary information. But that's one case where we did hire a statistician.

Mr. Bob Delaney: Do you find from time to time, and now particularly, when you're talking about positron emission tomography—it's a little esoteric even in the field of physics—that you'll run into an area where you think, "We need to broaden our expertise here or gain access in one form or another to someone who can help the office of the Ombudsman shape its thinking"?

Mr. André Marin: When we conduct our investigations, we acquire the necessary knowledge to be able to make a recommendation. The ultimate control to all this, the ultimate response, is from the government, because the government is full of expertise. If they think that a recommendation is not sound, they'll reject it. In the case of the OLG, we had to deal with very complicated theories of win. In the case of MPAC, we had to deal with the algorithms of property assessment. We encounter very specialized, very concentrated fields where we must ramp up our knowledge very quickly. When we need it, we go get it, and so far, when we've taken

positions based on expertise we've acquired, the government has accepted the recommendations. It tells me that we were getting it in the right cases.

Mr. Bob Delaney: Do you have a formal budget line or budget envelope for the task of communications or public relations or however you might term it?

Mr. André Marin: Yes, I do.

Mr. Bob Delaney: In other words, do you have full-time staff whose function that is?

Mr. André Marin: Yes.

Mr. Bob Delaney: How many would that be, roughly?

Mr. André Marin: Well, right now we've got two people in that position, and they are actually here. Linda Williamson is in the front row and Patricia Tomasi is right beside her. And we have a clerk who assists as well.

Mr. Bob Delaney: You also mentioned some of the bargaining units that you deal with in the context of your budget. What bargaining units are represented in the Office of the Ombudsman?

Mr. André Marin: I'll defer to the Deputy Ombudsman on that one.

Ms. Wendy Ray: The name of the union is COPE, Canadian Office and Professional Employees.

Mr. Bob Delaney: How are your relations with the bargaining unit right now?

Ms. Wendy Ray: We just entered into a new collective agreement on February 19. Everybody's doing their work and everybody seems to be happy with the agreement. In the end, there was an overwhelming vote for the agreement.

Mr. Bob Delaney: That's a good sign. Thank you.

Mrs. Laura Albanese: I am also new to this committee. I read here that it is part of the committee's mandate, under standing order 106, to "formulate general rules for the guidance of the Ombudsman in the exercise of his or her functions under the act." But then I also read that the committee has not formerly exercised its rule-formulating power since the late 1970s. So my question is, how could we be of help? What role would you see for this committee in assisting?

Mr. André Marin: I appreciate the question. I think the best thing the committee could do is to adopt a non-partisan approach.

I have been exposed, in the many years in this job and my prior job, to various parliamentary committees, and those who have been the most useful and effective are those who leave party politics at the door. I know it's not always easy in a parliamentary democracy. In my prior job, when I was the military ombudsman for Canada, I appeared frequently in front of parliamentary committee. I found them extremely useful in sharing information with the office and supporting the findings and making sure that the Department of National Defence was aware of the parliamentarians' pressures to move things along.

In the context of this job, we've had a very supportive Premier and cabinet; we've had a very supportive opposition in moving things forward. That's why as Om-

budsmen, we've been able to see the successes we have, because the system is working as it should.

One area where I think the system is failing is in providing oversight to the MUSH sector. If party politics prevail, it's the kind of issue where this committee is losing out on an opportunity to give it an objective assessment. I think that's an area where a non-partisan approach to the matter would resolve the issue pretty quickly, because it's pretty black and white as far as I'm concerned.

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Mrs. Laura Albanese: I understand that a non-partisan approach is very important. Beyond that, if you had a wish list, what would that be?

Mr. André Marin: As I answered in a prior question, I think it would be very useful for the committee to be well briefed on the cases in which we've pursued a field investigation. I think the committee will be able to see our office as more useful if it has more knowledge about how our office functions and the kinds of things we recommend, and I think that will have a multiplying effect in other areas. So I'd be more than pleased, whenever I table the report, to come and present it before the committee.

Mr. Shafiq Qaadri: Are there guidelines to the Ombudsman's office and to the various officials involved with regard to their own media outreach? When, for example, does the legitimate raising of your report and the concerns and the recommendations and, as you say, alerting both government and the members of the public as to your particular findings kind of cross into something else? For example, there are other members of the Legislative Assembly, whether it's clerks of the committees, clerks in Parliament, the Integrity Commissioner, and others whom I don't often see, if ever, in the media. Are there specific guidelines for that?

Mr. André Marin: In the world of ombudsmanry, the very essence of being an ombudsman—and this dates back to 1809—is the ability to shine a public spotlight on an issue. It's part and parcel of the work we do. It's an absolutely essential element, because moral suasion is all the office has at the end of the day.

The only guidelines would be your level of comfort with the issue, your respect of the oath of secrecy, your respect of process, the opportunity for government and complainants to be heard before you take positions on issues. They need to maintain impartiality and independence.

Those are all the things that, as Ombudsman, I have to work with, but the ability to reach out and shine that public spotlight on an issue is an absolute essential to the effectiveness of the office.

Mr. Norm Miller: I'm just looking at your annual report and a little graph showing the various areas that you don't have jurisdiction over, including municipalities. But in the past year, you have gotten jurisdiction over some municipalities, have you not? I believe the municipalities could either appoint their own ombudsman

or you could have oversight over some aspects of a municipality.

Mr. André Marin: The only aspect of a municipality which we can oversee is whether or not they have held an open meeting as prescribed by law, assuming they haven't ousted my jurisdiction to do so. In other words, by default, the Ombudsman's office is the investigator of complaints that a municipal council had an in camera meeting when they should have had a public one. But each municipality can opt out of that regime and appoint their own beholden investigator, if they want.

In Ontario, right now, we are the investigator for 200 of the 445 municipalities when it comes to complaints about open meetings only.

Mr. Norm Miller: So it's only whether the meeting was held in camera or not.

Mr. André Marin: Just that.

Mr. Norm Miller: When you take on a new responsibility like that, do you get any budget to go along with it?

Mr. André Marin: We had no additional budget increase to deal with this area.

Mr. Norm Miller: So there's no cost to the municipality, whereas I assume that if they've appointed their own, which about roughly half have, they would then have some sort of costs to cover?

Mr. André Marin: Absolutely—a \$1,200 retainer in some cases. The city of Ottawa hired their investigator—a \$25,000-a-year retainer, for just one city.

We've had no additional funds to deal with this whole new area of jurisdiction, and it's one that I've had to absorb out of our budget.

Mr. Norm Miller: What do you think the motivation is for a municipality wanting to have to pay out some of their tax dollars to set up their own sort of oversight?

Mr. André Marin: I think many municipalities have been very resentful of this new obligation of transparency passed by Queen's Park. They've not embraced it at all. It's been the motivation why they've opted out, because it's a lot easier to hire someone with no degree of independence, who is on a short-term contract, to put up a shingle saying, "You shall investigate complaints of open meetings."

I hate to generalize. Some of them have been leaders in the field. For example, the mayor of Sarnia has been outspokenly in favour and he thinks the legislation should have gone further. But the majority of them have not embraced openness at all.

Mr. Norm Miller: I see on your chart also that boards of education are an area you don't have oversight over in the province of Ontario. Once again, next to health care, it's the next biggest item in the Ontario budget.

Mr. André Marin: That's correct.

Mr. Norm Miller: I see that other provinces, once again, do. The Ombudsman does have oversight over education. From my perspective, I would think it would make sense that you do have jurisdiction over education. The public good would be served if you were overlooking it.

Mr. André Marin: Yes, thank you. I also agree with that.

Mr. Norm Miller: I've just about done questions. Thank you very much for coming today and thanks for the job you're doing.

The Chair (Mr. Bas Balkissoon): Ms. Jones. We have one more.

Ms. Sylvia Jones: Yes, I just have one further. If I can reinforce what Mr. Miller said, it must be very challenging to follow the money when you have to stop at the door of all of these MUSH agencies. I wish you well in that quest.

I have a specific question related back to your MPP complaints. I dealt with a family who had to deal with the death of their son while he was getting social services. To make it short, when someone passes away while they're on social services, there is a set amount of money given for funeral expenses. The challenge that we ran into is that that amount must be pre-approved, and in the case of this family, the son died on a Friday, after 5, so they did not have the opportunity to get that pre-approval. Would

that be an example of something that I could bring to you and say, "I see a problem with the existing system." Could you take it further, using, as you say, your moral suasion?

Mr. André Marin: Yes. Obviously, we'd have to investigate it and agree that it's worth going to the next phase of making a recommendation, but, absolutely, we would love to get that.

Ms. Sylvia Jones: This has been very helpful. I appreciate your time.

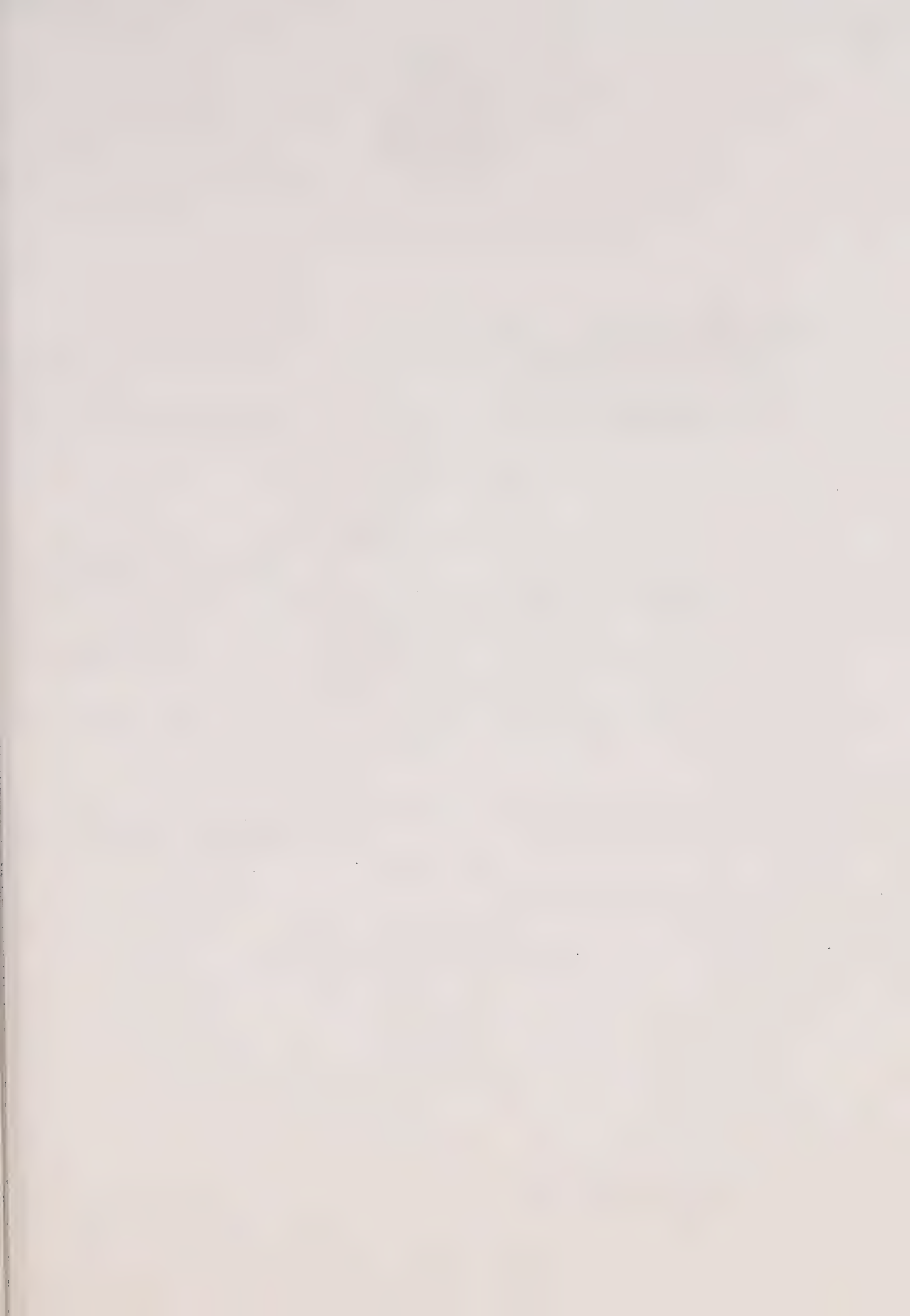
Mr. André Marin: Pleasure.

The Chair (Mr. Bas Balkissoon): Mr. Marin, thank you very much for coming here and sharing your thoughts with us. We really appreciate it and we look forward to seeing you again.

Mr. André Marin: Thank you, Mr. Chair, and thank you to all committee members for their warm reception.

The Chair (Mr. Bas Balkissoon): I guess that's the end of our agenda. The committee is adjourned.

The committee adjourned at 1716.



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Journal des débats (Hansard)

Mercredi 7 mai 2008

Standing Committee on the Legislative Assembly

Use of technology

Comité permanent de l'Assemblée législative

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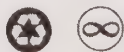
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 7 May 2008

Mercredi 7 mai 2008

The committee met at 1306 in room 228.

BRIEFING

The Chair (Mr. Bas Balkissoon): I call the meeting of the Legislative Assembly committee to order.

In the interests of the committee, the Speaker is here, as a courtesy, to give us a quick outline on the role between the committee and the Speaker. I would like to deal with the Speaker first. Is that okay with everybody?

The Speaker (Hon. Steve Peters): Absolutely.

The Chair (Mr. Bas Balkissoon): Steve?

The Speaker (Hon. Steve Peters): I appreciate the opportunity to address the committee.

First, I'd like to introduce Maggie Head, my executive assistant. If any of you have any issues at any time, please don't hesitate to contact Maggie in room 180, 5-7435.

There are a couple of issues I just wanted to broach. One was the issue of the parliamentary channel. I know that there has been discussion amongst all three caucuses on Web-streaming the proceedings. Depending on what satellite provider you have, or in some parts of the province, you don't necessarily have access to the parliamentary channel. There seems to be a general consensus amongst all three parties to proceed with Web streaming. I just wanted to let the committee be aware that I will be taking a resolution to the Board of Internal Economy to see if they're prepared to fund this. It would have an annual cost of about \$50,000. Those are dollars that are not budgeted for, and certainly, if this is a priority, those dollars would have to be found by the government. But there does seem to be a consensus for that.

I should just back up for a moment—and former Speaker Brown certainly can relate to this too. The parliamentary channel does fall under the purview of the Speaker. There are very clear and strict rules regarding the parliamentary channel that are set out by the CRTC as to what can and cannot be placed on that channel. The general rule is that anything that in any way may be perceived to be of a political nature cannot go on that channel. As an example, if somebody wanted to advocate for Foodland Ontario commercials, Foodland Ontario commercials would not be eligible. Getting-a-flu-shot commercials would not be eligible under the CRTC rules. It is strictly to broadcast the proceedings of the Parlia-

ment. The only exception granted has been for election time, because that is something that is viewed as non-partisan.

I was in Quebec City at a Speakers' conference in January, and the Quebec National Assembly has a very interesting thing that they do with their parliamentary channel—which is allowed—and that is profiles of all the members in a non-partisan way. I shared copies of some work that broadcast services had prepared and I'll pass this around. I know it was discussed in at least two caucuses—I'm hoping at others. This is strictly general information about each member in the Legislature. You'll notice, as you look through it, that it's bilingual. There are no colours identifiable with the parties. What it does is provide information about each of the members. It provides contact information as to what role they play either as a minister or as a critic. As well, it provides for their constituency addresses, their Toronto addresses. The one other aspect of it is a small, approximately 30-second-video clip of the member in the chamber, but there is no sound associated with it. This is allowed and can be added to the parliamentary channel at virtually no cost because it's all work that can be done in-house.

I'm here today to seek support, certainly, or at least put the subject on the table and ask for the committee's consideration. Whether that is today, or you may want to deliberate and report back to me down the road, but just to put it on the table that I would appreciate the consideration of the committee of this initiative to find out whether there is the support to proceed with it.

I have one other subject that I'd like to raise as well, but I'll just leave this one for now, Mr. Chair.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Ms. Sylvia Jones: Forgive me; I actually don't own a TV, so I'm going to ask some questions. What does the Legislative Assembly show during an election period and during the summer and winter recesses currently?

The Speaker (Hon. Steve Peters): During the summer recess, if you were to watch—for Hansard's sake, I'm looking at the television screen that is behind me over my left shoulder, and what you see on that television screen right now—different views of Queen's Park; views of the provincial flag—is what you would see with some background music, generally classical music. That is what is on when the House is not sitting.

Ms. Sylvia Jones: And again, currently, when we are in session, I know that the debates get repeated. How often does that occur? What is the repeat cycle?

The Speaker (Hon. Steve Peters): It is at least once. Generally, what happens is the repeat begins at either 6:15 or 6:30 and the whole session is shown again.

Interjection.

The Speaker (Hon. Steve Peters): It's in the evening too, like overnight?

Sorry. So it would be repeated just once.

Ms. Sylvia Jones: So once live and once repeated.

The Speaker (Hon. Steve Peters): Correct.

Mr. Michael A. Brown: There's also a Sunday.

The Speaker (Hon. Steve Peters): Thank you, former Speaker Brown.

There is also a Sunday encore. It's like a synopsis of the week. The broadcast services, I think, will do some editing and provide a kind of synopsis of what took place over the past week.

Mr. Norm Miller: I was just looking for clarification on what the committee's responsibility is for the television services, because I know the television service is one of the things that the committee is responsible for. So how does that work in terms of how we report to you or what the relationship is?

The Speaker (Hon. Steve Peters): Ultimately, it is the Speaker, on behalf of all the members, who would say yes or no to something going on the legislative channel. But the Speaker would not act unilaterally; hence why I circulated the proposal to the caucuses and I am now before you as a committee.

Mr. Norm Miller: What is the committee's responsibility, though? Maybe the clerk can clarify this. I know that a couple of years ago we toured the television service, and as far as I know, that's one of our responsibilities. What exactly is the job of the committee to do with television services? Is it the budget? Is it what they do?

The Clerk of the Committee (Ms. Tonia Grannum): It's to conduct reviews, at least on an annual basis, of the televising of the legislative proceedings and the guidelines established by the House with respect to the television broadcast system. In that capacity, you act as an advisory body to the Speaker. There are a set of guidelines that are in your standing orders binder.

Mr. Norm Miller: That helps. So, we can look at the television services and make recommendations, and the Speaker has the final say on our recommendations.

Mr. Kevin Daniel Flynn: Just so I have a good understanding, are we bound by law to televise the proceedings?

The Speaker (Hon. Steve Peters): I don't believe so, but it is a decision that has been made, I think, since television was introduced in the chamber in the mid-1980s. It has become the practice and the tradition of the Legislative Assembly.

Mr. Kevin Daniel Flynn: Do we have any idea as to what the overall operating budget is for the current status of the televised proceedings?

The Speaker (Hon. Steve Peters): I don't have that, but I can certainly provide that. It's my understanding that you may well be having the broadcast services coming in, at your next meeting, for a more fulsome discussion with your committee.

Mr. Kevin Daniel Flynn: Some of the NBCs and the CBCs of the world do some sort of viewer sweeps to get some idea as to the number of people who are using their particular channels. Do we do anything like that with our channel?

The Speaker (Hon. Steve Peters): If I could defer to former Speaker Brown, he may be able to provide better clarification.

Ms. Sylvia Jones: I can help there. You can subscribe to BBM, the Bureau of Broadcast Measurement. Private stations generally do it, and then they track the viewers. I'm confident that the Legislative Assembly does not subscribe to BBM.

Mr. Michael A. Brown: I don't know that we do it all the time, but we have surveyed, through whatever means, the viewership of the channel. I cannot recall the numbers off the top of my head. But I know it has happened.

The Speaker (Hon. Steve Peters): I'll ask the broadcast services to provide the committee with some additional information.

I can just tell you anecdotally that there are an amazing number of people who do watch it, who are what I would call armchair Speakers at home, who don't hesitate to either phone or e-mail the Speaker's office, providing advice as to how to deal with the members.

Mr. Bob Delaney: That gives rise to the obvious question: Are they giving the Speaker the thumbs-up or the thumbs-down?

I have two points. One is that I'd like to try out, after I'm finished here, some of the points you raised as a motion and see whether or not the committee would be willing to support it. Secondly, could we begin, in this fiscal year, a process of reviewing the actual broadcast technology, which is pretty much the same stuff that they put in nearly 25 years ago and is, in this day and age, archaic? In this current fiscal year, the notion of upgrading it would logically not be in the budget, nor should an upgrade be considered without looking at plans and options. Would it be realistic to ask the Speaker to work with broadcast services to talk about what we would like to have broadcast services look like in, say, the year 2012 and beyond? Perhaps we can set up an action plan to get there, beginning with a series of decisions that can be made in subsequent fiscal years.

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The Speaker (Hon. Steve Peters): I know that there is new lighting that is being installed in the chamber. In association with that new lighting, new cameras are being purchased. This is an issue that is under the consideration of the Board of Internal Economy.

I believe, as the clerk pointed out, that it's certainly within the purview of this committee to look at broadcast services. Certainly, I am prepared, as the Speaker, to

work with the committee and would be asking the broadcast services division within the Legislative Assembly to work with the committee to look at where we are and where we could possibly go.

Mr. Bob Delaney: Not wishing to get too far ahead of where we are now, but looking at the very obvious and clear trends in the hardware market in the consumer world, surely to God there isn't any reason why we would not, for example, install high-definition cameras if we're going to upgrade the current technology.

The Speaker (Hon. Steve Peters): The technical point that you just raised is beyond me. I would certainly take it under advisement and ask that the broadcast services appear as a deputant before your committee, where you could ask those more technical questions.

Mr. Bob Delaney: Mr. Chair, in the here and now, when we're done this round of comments, I'd like to propose a motion with regard to some of the short-term proposals that the Speaker has made.

The Chair (Mr. Bas Balkissoon): Can we do that when we deal with our subcommittee report?

Mr. Bob Delaney: This is actually with regard to proposals the Speaker has made to webcast the proceedings and to put profiles on the Web. I thought it might be helpful to have a motion from the committee on that. Shall I do it?

The Chair (Mr. Bas Balkissoon): I would say go ahead, but it would have been good, too, as part of the subcommittee report, number 4. We're going to do a review soon, so it would have been better to do a comprehensive job rather than one part now and another part later.

Mr. Norm Miller: Is it next week?

The Chair (Mr. Bas Balkissoon): We didn't pick a date. Since we're doing a review of the whole broadcast system, I think if we do it all together and report once, that would be the best thing to do.

The Speaker (Hon. Steve Peters): I'm very comfortable with that, as well. I just wanted to use this as an opportunity to put the initiative in front of the committee and would certainly allow you to follow your process.

Mr. Bob Delaney: It works for me.

The Speaker (Hon. Steve Peters): There's one other item I would like to lay before the committee for its consideration, and I would certainly welcome some direction from the committee. Certainly, any role that each of you, as members, can play in assisting in general decorum within the House is always very much appreciated. An issue has arisen over the past couple of days, and when asked by the media, I said that I would be referring the matter to you. I'm honouring that commitment, and I will leave it in your hands to see what your recommendation is. The issue of coffee being served within the chamber has been raised by a member. Perhaps your legislative researcher may be able to provide some detail as to the history of how we got to serving just water within the chamber. My issue was—and this is why I think it's most appropriate that it be

dealt with by you: If it becomes coffee, are there other drinks that are going to be wanted to be served within that chamber? Then, beyond that, does it get into food? I will certainly look for some direction from your committee. Again, I'm not looking for an answer today, but it's an issue that I just felt was appropriate to put on the table, as it has been raised by an honourable member.

Mr. Kevin Daniel Flynn: I was just walking into the chamber that morning when it happened. My understanding is that it was raised as a bit of a joke; it was a jest, I think. It was the first day of the new hours and somebody suggested that they might need a coffee. The Acting Chair, probably exercising some latitude, decided that he would entertain it seriously. Then the media seized upon it and it seemed to develop a life of its own. Any member I've talked to does not want coffee in the House. They are quite happy with the status quo. I think that if there was a way of dealing with this quickly, to just put an end to it, for all parties involved, that may be the best thing to do—in my opinion, anyway.

Mr. Norm Miller: I would support Mr. Flynn. We have coffee in the west and east lobbies, which is easily accessible for those who really want to have a coffee. We have water available in the Legislature. Personally, I think that's just fine. So I'm pleased to deal with this very quickly and would certainly support the status quo.

Mr. Bob Delaney: I spoke with the member who raised it, the member for Carleton–Mississippi Mills, who said that he too was a little surprised at the way that it developed a life of its own. I very much agree with Mr. Flynn and Mr. Miller.

Mr. Peter Tabuns: I'd say there's unanimity on this.

The Chair (Mr. Bas Balkissoon): Have you got your answer, Mr. Speaker?

The Speaker (Hon. Steve Peters): Thank you. If any further questions arise, Mr. Chair, I'll gladly refer them to you.

If at any time, Mr. Chair, on any other issue, you would like me to appear before the committee, please don't hesitate. I look forward to working with you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): We'll move to the agenda. The first item is the report of the subcommittee on committee business. If I could have Mr. Flynn read the report?

Mr. Kevin Daniel Flynn: Your subcommittee met on Thursday, April 17, 2008, and agreed to the following:

(1) That a delegation of the Chair, one member from each caucus and two staff attend the 2008 annual meeting of the National Conference of State Legislatures, subject to approval by the House.

(2) That the subcommittee be authorized to approve a committee budget for the delegation attending the NCSL annual meeting for submission to the Speaker and the Board of Internal Economy for their approval.

(3) That the Chair write a letter advising the Ombudsman that the committee requests that he provide a briefing and answer questions on all reports of the Ombudsman as they become available.

(4) That the committee at a future meeting conduct a review of the television broadcast system as set out in its mandate.

I would move the adoption of that report.

The Chair (Mr. Bas Balkissoon): Any discussion or comments? I have a motion by Mr. Flynn to adopt the report. All in favour? Agreed.

Now we have, as part of this report—the budget has been circulated. As I understand it, it just goes to the board.

The Clerk of the Committee (Ms. Tonia Grannum): Yes, if we approve it.

The Chair (Mr. Bas Balkissoon): This goes to the board for approval. We don't have to set aside the money; it's just a guideline of the approximate cost for the conference. So if you're okay with the budget as presented, I'd like to have a motion to adopt it.

Interjection.

The Chair (Mr. Bas Balkissoon): A motion by Mr. Rinaldi to adopt the budget as presented: All in favour? It carries.

Based on the subcommittee report, there's a request to review the broadcast system. Do we have the Ombudsman's report?

The Clerk of the Committee (Ms. Tonia Grannum): I circulated the report on—I can't recall the issue, but it has been distributed.

The Chair (Mr. Bas Balkissoon): I don't recall seeing it. Does anybody recall seeing it, the Ombudsman's report?

Interjections.

The Chair (Mr. Bas Balkissoon): We'll send the letter off.

When would you like to deal with the broadcast system? Do you want me to call a meeting next week or the following week? Well, no, the following week is the break. The first week after the break?

Mr. Peter Tabuns: The first week after the break.

Mr. Bob Delaney: Could we resolve the matter before the House rises in the spring?

The Chair (Mr. Bas Balkissoon): I would guess so, if we deal with it the first week after we return from the break. I can't see us deliberating a whole lot about it.

Mr. Bob Delaney: Okay.

The Chair (Mr. Bas Balkissoon): So Wednesday the 28th? We'll invite staff from the broadcast system to present to us what it is they have and what they are doing. Then we'll take your motion, Mr. Delaney, and submit a report to the Speaker.

Anything else?

Ms. Sylvia Jones: So on the Ombudsman's report, how are we proceeding with that? We'll get it re-distributed?

The Chair (Mr. Bas Balkissoon): First, I have to send the letter in number (3). He knows that he has to report to us, so when I hear from him we'll schedule it.

Do we have a motion to adjourn?

Interjections.

Mr. Norm Miller: On the agenda: Use of technology in the legislative precincts.

The Chair (Mr. Bas Balkissoon): Sorry.

USE OF TECHNOLOGY

The Chair (Mr. Bas Balkissoon): Subsequent to the last meeting, the report from the House went to the Speaker. He's acting on it.

Mr. Norm Miller: Sure. I understood that, so I was surprised to see it on the agenda.

The Chair (Mr. Bas Balkissoon): I think the agenda was printed beforehand. The latest that I understand from the Speaker's office is that we'll be able to use technology in here—the issue in the House is not resolved.

Mr. Norm Miller: The wi-fi, wireless.

The Chair (Mr. Bas Balkissoon): Being available in the east and west lobbies?

The Clerk of the Committee (Ms. Tonia Grannum): It's in the process of being installed.

Mr. Bob Delaney: As a question of clarification, will that also include wi-fi in the committee rooms?

The Clerk of the Committee (Ms. Tonia Grannum): My understanding was the lobbies, the dining room and the library.

The Chair (Mr. Bas Balkissoon): That's what I was told.

Mr. Bob Delaney: Can we clarify on committee rooms? Because it would make a lot of sense in committee rooms.

The Chair (Mr. Bas Balkissoon): I will at least take that to discuss it with the Speaker.

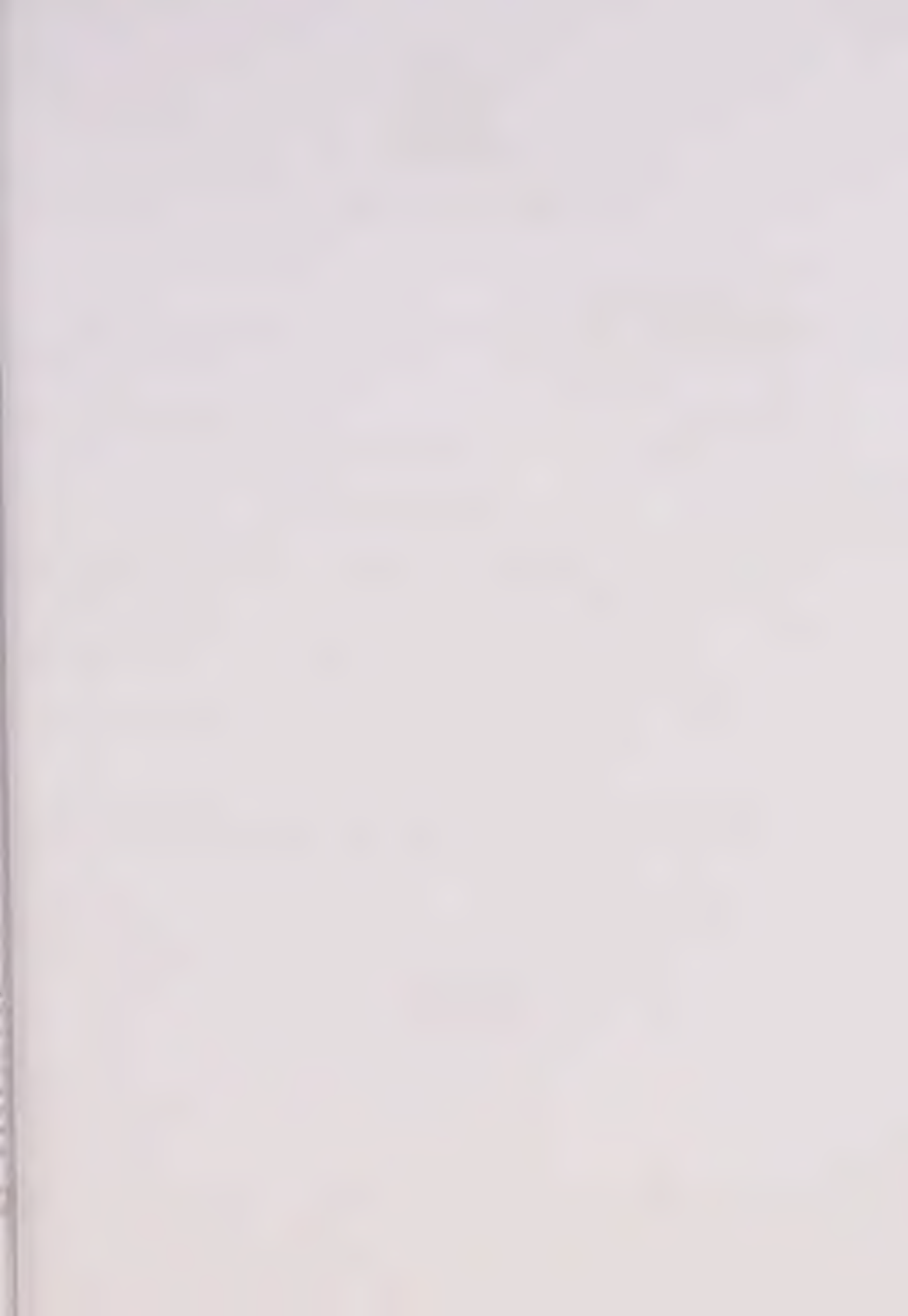
Mr. Bob Delaney: That was part of the original recommendation back when the report was drafted, and its availability in committee rooms would be very helpful, not merely for members, but especially for some of the staff and people who come in during deputations.

The Chair (Mr. Bas Balkissoon): That was a committee recommendation, so I'll have to find out where it goes from there.

The Clerk of the Committee (Ms. Tonia Grannum): I'll just give you an update on the status of that previous report. The previous report from the Legislative Assembly committee was presented to the House, tabled in the House in the 38th Parliament. So therefore it was up to the House to act on those recommendations. The Parliament dissolved. We're in a new Parliament, so that report is procedurally dead. If you want to discuss further issues with respect to technology, you can bring them up as a brand new mandate in this committee.

The Chair (Mr. Bas Balkissoon): But I will definitely check with the Speaker's office as to what is being implemented and I'll let you know, Bob.

The committee adjourned at 1333.



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First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 28 May 2008

Standing Committee on the Legislative Assembly

Annual review,
television broadcast
system and guidelines

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 28 mai 2008

Comité permanent de l'Assemblée législative

Rapport annuel ,
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et directives

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 28 May 2008

Mercredi 28 mai 2008

*The committee met at 1304 in room 228.*ANNUAL REVIEW,
TELEVISION BROADCAST
SYSTEM AND GUIDELINES

The Chair (Mr. Bas Balkissoon): Since we have a quorum, we'll call the meeting of the Standing Committee on the Legislative Assembly to order. On the agenda we have today, as we requested, the annual review of the television broadcast system and guidelines.

I want to welcome the Honourable Steve Peters, the Speaker; Deborah Deller, the Clerk; and Mr. Arleigh Holder, the director of broadcast and recording. I don't know who's going to go first.

The Speaker (Hon. Steve Peters): I'll start, Mr. Chair, just to say thank you very much for the opportunity to address the committee. We'll be looking to Arleigh Holder, our director of broadcast and recording services, to deal with the technical questions that arise.

I just wanted to update the members on one issue that I know has been discussed around the building, and that's the issue of video streaming, of having the legislative broadcast on the Internet. The cost for that was approved at the last meeting of the Board of Internal Economy. As of Monday of this week, the site is up and running. So if you were to go to the homepage of the government of Ontario, you would see an icon for video streaming. There will be no repeat, but it is live and it is up and running.

With that, I'm going to turn it over to the Clerk for any comments that she may have, then Arleigh will deal with the bulk of the presentation.

The Clerk of the Assembly (Ms. Deborah Deller): Thanks, Speaker. We thought maybe what we would do this afternoon is, given that there are some new members of the committee, we have a short video of the history of the broadcasting and recording service, so with your indulgence we're going to show you that video just to give you an overview of what it is the service does. Arleigh can follow that up with a little bit more of an introduction and orientation. We'll talk about some of the initiatives that we have undertaken in broadcast and recording. To end, there is just one issue that I need to make you aware of. So, Arleigh.

Mr. Arleigh Holder: Thank you very much. I will start off, first, with this six-minute video—it's not very

long—just showing the history of broadcast recording, some of the things that we're doing and some of the equipment that we use. After that, I would get into what we'll be doing in the future.

Video presentation.

1310

Mr. Arleigh Holder: Most of what I'm about to say was covered in the video, but I would just like to go over a few things. I'd like to also invite all members to drop by broadcast and recording to get a personal tour of our facilities. We are currently involved in some reorganization which Deborah will talk about.

Right now, we are available on some 200 cable systems throughout the province, as well as Star Choice. Question period is also seen on TVO as a repeat broadcast very early in the morning. We have, of course, the media studio, which is operated by broadcast and recording. It's a very busy room. Most conferences are carried live on CP24 or Newsworld, and that room can be booked by any member.

We have a full-time staff of 22 bodies, divided into audio and video maintenance. We travel with committees whenever there's a committee travelling around the province. Our department goes ahead to the hotel, or wherever you're setting up, and we set up all the microphones and do all the recording, which is then given to Hansard. We provide set-ups and cues for the Lieutenant Governor and special groups that attend the assembly.

The Clerk of the Assembly (Ms. Deborah Deller): I'm just going to fill you in on a couple of initiatives that we've undertaken recently. One is, if you are in a committee that's meeting in 151, lately you will notice that we have installed three new television monitors on three of the walls in the committee room. This will enable greater ease of videoconferencing if a committee chooses to explore that method of interviewing witnesses. It will also allow witnesses, when they are bringing presentations that are PowerPoint or slides in nature, to be able to show those on the monitors in room 151. We have that advantage in that room because it is televised and the booth is right next door. It's not something, at least right now, that we can necessarily offer in the other committee rooms, although we'll explore that as well.

We also have a new sound system that's very recently been installed in room 151. We have had an issue with BlackBerries. You've heard the noise they make if you have them on your desk in the House and they resonate

through the sound system. That's not so much the problem. The problem is this rapid "tat, tat, tat" that a Black-Berry makes, even if it's silent when it goes off. If it's near a microphone, you've probably noticed it if it's near your computer or your car radio. That's an issue for the interpreters, in particular in room 151, because it's a noise that is bothersome to the ears. The new sound system that has recently been installed in 151 mitigates that, so that little rapid-fire sound doesn't occur on the new sound system. Members should be aware that it still does occur in the House to some extent, and so to the extent possible, we'll be asking members to keep their Black-Berries as far away from the microphone as possible.

We have an amount that we have put into the estimates this year for the installation of new, upgraded cameras in the legislative chamber. For the last several years we have undertaken a long-term project to digitize all of our equipment. We still send out the signal in analog format because that's how it most often gets received, but we are very current and very up to date in terms of the technology we use here at the assembly.

The final thing is, as the Speaker mentioned, the web-casting. That is up and running. It's the feed from broadcast and recording. It's administered through the information management office outside of broadcast and recording. You will notice that you can access it in either English or French. The interpretation is broadcast just as it is on your television set.

1320

One thing I should mention: If you are an internal user, you are in fact bypassing—we have a service provider that is hosting the webcast for us, but if you're using it from your office here at Queen's Park, in order to avoid an impact on the bandwidth that we're paying for, you will be actually accessing it through our internal system. So what you will notice is, if you have your TV on in your office and at the same time you've got the webcast running on your computer, there is a slight delay on the cast in the computer. That is true in-house, not true for the users outside of this place. They're getting live real-time.

The webcast is a live webcast. The ability to archive and provide a search component is much more complex than just providing the live cast. So we aren't doing that at the moment, although it's something that we will probably explore further down the road. Did I miss anything? Yes. Go ahead.

Mr. Arleigh Holder: One of the other services that we provide to members is dub requests. I've included in this document some stats about how many dubs we actually do every year.

First of all, if you go through it, there's an introduction and it just tells you some technical stuff and what we're going to do in the future. But then there's also the CRTC regulations so that if you wanted to really see how we are governed and what we can or cannot do—

The Speaker (Hon. Steve Peters): I think, Mr. Chair, it may be important to just highlight some of the CRTC regulations, because I know there has been talk in the

past of using the Legislative channel to promote things like Foodland Ontario commercials or "Get your flu shot" commercials. There's a reason we can't do that, and it is this ruling. I'll turn it to Deb, Mr. Chair.

The Clerk of the Assembly (Ms. Deborah Deller): If you do take a look at those CRTC guidelines, on the second page in particular you'll notice they are very specific in terms of what we are allowed to broadcast. If you take a look at item (g), you'll notice that it says that what we're allowed to broadcast is, "Any programming that is included ... but is in addition to the coverage of the proceedings ... is limited to a description of the processes of Parliament or the Legislature involved or an agenda"—you'll notice that we've put committee agendas up and sometimes the agenda of the proceedings in the House—"... of upcoming activities." No comment, no further analysis, just anything related to the Legislature can go up, but nothing external to that. So we are very strictly governed by these CRTC guidelines in terms of what we can or cannot broadcast. The committee should be aware of that.

Further to that, in the back of your grey standing orders binder under a tab called, oddly enough, "Television Guidelines," you'll notice that in 1986, when Broadcast and Recording was started, the committee and the House adopted specific guidelines around how the House is to be recorded. Those guidelines are still in effect today. I think the last time I was before this committee there was a review of those guidelines and the decision was to maintain the status quo. But, as members of the committee, you should probably make yourselves aware of those guidelines as well. I think Tonia's passing out copies of them now.

Dub requests: When Arleigh talks about dub requests, what he's referring to—some of you are probably aware—is the request that we get sometimes from members saying, "Can you give me a copy of the tape of the member's statement that I made yesterday, or the day before?"

Those are on the increase dramatically from members. We suspect it's because there is an increasing propensity among members to post those dubs on either their own website or, it turns out, YouTube. So those requests are increasing. It does put some stress on the staff in Broadcast and Recording because, obviously, it takes some time to create the dub copies. Currently, we're managing it. We may, though, have to come up with an alternative system somewhere down the road if the increase in demand continues.

Mr. Arleigh Holder: If you look at the last page, you can see that so far this year we've done 197 requests for dubs. That's just since January.

The Clerk of the Assembly (Ms. Deborah Deller): Two other things—oh, sorry.

Mr. Arleigh Holder: I also wanted to include a list of all the cable companies that are carrying us and their potential subscribers and actual subscribers. Obviously, one of these cable companies is probably serving you in your area.

The Clerk of the Assembly (Ms. Deborah Deller):

Two other things to mention briefly: One, as Arleigh mentioned, is that broadcast and recording is also responsible for the operation of the media studio. What you should know is that we operate the media studio in co-operation with the press gallery. We work very closely with the gallery in developing the guidelines for the media studio and in terms of all of the policies around the use of the media studio. Our philosophy has always been that the studio is really there for the use of the press gallery, so their opinion about how it should be operated is weighted very heavily.

The other issue I wanted to draw to your attention is the news that we've recently been told—as recently as yesterday confirmed—by Star Choice that they are not interested in renewing our contract for the distribution of the OntParl signal. There are probably a lot of reasons for this. One is that as the demand from networks, such as CTV, increases for high definition, which uses up more bandwidth, the satellite companies are looking for clients they can off-load in order to make room for probably higher-paying clients with increased viewership. So we've been given a warning that Star Choice is not interested in renewing the contract, which will mean that Star Choice viewers, once that happens, will no longer have access to the assembly's parliamentary channel.

We are exploring different options to deal with that. One, obviously, is to see if Bell might want to pick up the signal for broadcast on Bell ExpressVu. I have to tell you honestly that I'm not overly optimistic that that's something that will happen. We will explore that option, but Bell is probably under the same kinds of stresses as Star Choice.

The other thing that's possible: We used to provide the satellite signal to cable subscribers via—is it called C-band?

Mr. Arleigh Holder: Ka-band.

The Clerk of the Assembly (Ms. Deborah Deller):—and we may be able to come to an agreement with Star Choice to go back to that system that we used to have, still with access to the satellite in the provision of OntParl.

I just wanted to make you aware of it. At this point, I think we are still exploring options. It is very early for us to actually do anything in terms of appealing to the CRTC or anything like that, but it is something that we may seek your assistance in doing somewhere down the road.

I think that's all we've got. We're happy to answer questions.

The Chair (Mr. Bas Balkissoon): Yes, we have questions. Mr. Flynn?

Mr. Kevin Daniel Flynn: I have a few questions, but before I ask them, let me preface my remarks. I've only been here now for going on five years, I guess, and since I've been here, the one thing I have noticed is the professionalism and the quality and the discreet nature of the recording here. I think you guys do a super job, so I just wanted to pass that on from a new member.

From a business perspective, I suspect the service is on in every office of every party, of every member, and probably in a few of the ministry offices as well. Externally, I'm not so sure what the viewership is. I know there are a number of subscribers or a number of people that we send it out to. My impression is that the longer members have been at Queen's Park, the more convinced they are that hundreds of thousands of people are tuned in to this every day. As a newer member, I suspect that that figure is a little lower. I'm just wondering if we have any idea—I know we can track whom we send it to and who picks it up, like Cogeco and some other places like that. Do we have any way of tracking the numbers on who actually sits down and watches this? I guess the networks have a way of doing that somehow. Everybody knows who's watching American Idol and what the numbers are, or who's watching the hockey game.

1330

The Clerk of the Assembly (Ms. Deborah Deller):

They're the equivalent of the Neilson ratings, which we don't participate in. We did do it once. It's not very accurate. It was early on, in 1996. I think at that time it showed between 150,000 and 200,000 viewers, but again, it depends on the point in time at which you do the analysis.

The other thing I would say is that I'm not sure in the end that it matters what the viewership is. You started off by saying that every member thinks there are hundreds of thousands of people watching.

Mr. Kevin Daniel Flynn: Not every member; the older members.

The Clerk of the Assembly (Ms. Deborah Deller):

And my response was going to be that hundreds of thousands of people are watching. The point is, what you're providing is a service. You're providing the accessibility of the Legislative Assembly to the population of Ontario. In your mind, the viewership only matters to the extent that you provided that accessibility. If there are 100,000 people or 800,000 people watching, in the end it probably isn't going to make a difference to your desire to provide the service.

Mr. Kevin Daniel Flynn: Well, that leads me to—

The Speaker (Hon. Steve Peters): Mr. Chair, it was interesting that yesterday, as an example, one of the local cable companies had mixed their broadcast up and distributed the French broadcast in the Welland area. The member from Welland came to the Clerks' table to inform them of the problem, because his constituency office was receiving phone calls that the broadcast was in French and not in English, and those individuals weren't bilingual. I believe, Arleigh, you received a call as well.

Mr. Arleigh Holder: I received some calls from a member who then turned on his closed captioning so he could read it until it was fixed.

The Clerk of the Assembly (Ms. Deborah Deller): I guess one thing to note is that when something goes wrong, if something happens—sometimes Rogers has dropped the signal. Rogers used to be famous—and I don't know if they do this anymore—for pre-empting us

right at 8 o'clock at night, regardless of what was happening in the House, and then the phones would light up like Christmas trees. So there are obviously people out there watching. My mother is one.

Mr. Kevin Daniel Flynn: That's what I was going to say. I think each of the members probably knows people who watch this on a regular basis by their first names. I think we know the people who are very interested in these issues in each of our ridings.

From a business perspective, I'm looking at what the cost is of providing this service as well. If we're servicing a good number of Ontarian citizens, that's a great thing, and we're doing it at a reasonable cost and we're accountable in those costs. If we're spending an awful lot of money servicing 200 people, then I have some concerns, and I'd like to know a little bit more about it. I don't have any agenda here. I'm not trying to get rid of the TV service, but it is some information I would like to have. I think from a business perspective you need to have those costs. I think you need something more than just an anecdotal idea as to how many people are watching you. Even if the Neilson ratings are suspected to be inaccurate, it still is better than nothing. Right now I'm not sure if we have anything.

Mr. Arleigh Holder: The problem with ratings—most TV stations have ratings at a certain time when they're showing their big shows. That's when they get their big numbers. We don't really know when—if we knew when question period was going to be a volatile situation, we would say, "Okay, now do a rating." That would be different. But how can we tell when will be a good day? If you did ratings of a regular TV station at 2 o'clock in the morning, I bet the ratings would be terrible.

Mr. Kevin Daniel Flynn: When people can't sleep. Do we know what the budget is? Do you have that figure with you today?

The Clerk of the Assembly (Ms. Deborah Deller): In total, the broadcast and recording budget is a little over \$2 million; roughly \$2.5 million. About \$1.5 million or a little less than that is salaries and then it's about \$850,000 for the actual operating of the service itself.

Mr. Kevin Daniel Flynn: That's interesting information, because you could probably break that down. I don't think that's an unreasonable amount, but I really feel that we need to know just how much penetration we're getting, if we're providing a service that people are actually using. If it's a handful of people, then I'm concerned. If it's a lot of people, then I have no concerns at all.

The Clerk of the Assembly (Ms. Deborah Deller): If that's something the committee wants to direct us to do—I've got to tell you, I'd be waiting for direction from the committee to do that. I'm not sure that's a decision I'm prepared to make on my own because, once again, I think you need to think carefully about what you're going to do with the information once you get it.

Mr. Kevin Daniel Flynn: It's a standard business practice, though. We shouldn't be afraid of receiving

information. Really, what we do with it then is up to us. But I don't think we should be hiding from the information.

Mr. Bob Delaney: I'd like to pick up for a moment where Mr. Flynn left off. Perhaps some of the years I spent in public relations may come to benefit us.

The equivalent in Canada to the Nielsen ratings in the States is a service called the Bureau of Broadcast Measurement, or BBM. One subscribes to any one of a number of packages by the Bureau of Broadcast Measurement. It hasn't been since the 1980s that I did any work with them, so I'm not going to pretend to be up to date on their most recent policies and procedures, let alone their rates—but it would be worth inquiring. BBM will profile a broadcast outlet—be it cable TV, broadcast TV or radio—in 15-minute increments. So the information that Mr. Flynn suggested is, in fact, available and we could find out what the cost of doing that would be from BBM, and we would be able to know with some exquisite precision what our viewership rates are in 15-minute increments pretty much through the day. I think we probably would be surprised to find that, in addition to our staff and other government people and all of our families, there are people who really do watch this.

I would add, as a sidelight, one anecdote of my own. Soon after having been elected, I called home and I said to my significant other, Andrea, "I'm going to be on for about five minutes. If you're having dinner in the house, you may want to watch." This was when we had night sittings. So she turned it on and turned it up. When I came home, she said, "You should have seen this. I turned it on, there was your voice in the living room, and the first thing that happened was the cat ran right upstairs because he thought you were there." So I can at least claim viewership of one cat.

Again with regard to the comment made by the Clerk regarding requests for dubbing, at the moment, the procedure is a little time-consuming. You, as a member, have to go down and hand them a DVD or a CD on which they're going to dub the particular clip that you've requested. Presuming that we have the storage capacity to do this on the assembly's Intranet, I'd like to propose to you that when a request for dubbing is made, it be uploaded for a set period of time onto the Intranet and a user ID and a password be provided to the member, who can then download it, which would allow, for example, an out-of-town member to have his or her constituency office download it and then walk it over to the local TV station—essentially, off-load the burning of the CD or DVD onto either the member or the constit office, in which case they can make as many as they want, and streamline the process to enable the broadcast services people to deal with the request, upload it and essentially be done with it, with a minimum of need for interaction with the member or his staff.

Mr. Arleigh Holder: I would think that would depend on, first of all, what the member is going to use the clip for—if they wanted broadcast quality or if they just wanted a copy for a website. Everything we do is strictly

broadcast quality. Even the DVDs that we give you are right from the original masters. So uploading some of those clips will take quite a bit of time.

Mr. Bob Delaney: I accept the comment. It would be fair, when the request is made to do the dub, to say, "Is this webcast quality or broadcast quality?" If it's broadcast quality, it's your choice, you can either say, "Well, we're going to upload a file of however much in the way of megabytes," or in a long one, a gig or two. Or if it's in webcast quality, you can say, "We can easily upload that for your download."

1340

The Clerk of the Assembly (Ms. Deborah Deller): Yes, and actually when I mentioned the increase in demand for dubs, what I did say was that we'll be exploring ways of trying to deal with that. Certainly, one of the ways that we would explore is being able to make it available electronically to members.

Mr. Bob Delaney: Okay.

Mr. Arleigh Holder: In this package, I mentioned, in the future plans, that we are looking at implementing an online archiving system so that members can actually have access to clips themselves.

The Clerk of the Assembly (Ms. Deborah Deller): On the Intranet.

Mr. Bob Delaney: On the Intranet. Okay. Thank you.

Mr. Norm Miller: Thank you for your presentation today. I guess the thing I'm concerned about is that we seem to be losing networks or means of distributing our coverage of Queen's Park. I believe we lost one of the cable networks last year, did we not?

The Speaker (Hon. Steve Peters): What happened was that Rogers moved it above their basic package. You had the basic package, and they moved it into one of their specialty packages.

Mr. Norm Miller: And now it looks like we're losing Star Choice, which certainly for an area like Parry Sound-Muskoka and most of rural Ontario is not a good thing, because probably most people use satellite dishes for coverage. So hopefully you'll have some luck with Bell ExpressVu.

I'm just wondering if there's anything that needs to be done to make the coverage more interesting to the general public, which I would assume would then make cable companies and satellite companies more interested in looking for the service. I would expect that—not so much when the Legislature is in session, but there's more than half the year when it's not in session—there's not much too interesting on the broadcast service when the Legislature is not in session. So I guess my question is, are there other things that we could put on, and would we have to change the CRTC rules to be able to do that, to maybe enhance the service for the six and a half months when the Leg. isn't in session?

The Clerk of the Assembly (Ms. Deborah Deller): First of all, we are restricted by the CRTC rules, and I don't honestly see that changing. But within the rules, I think there are some things we can do. The Speaker brought forward to this committee one initiative, which is

to put members' bios up. That's consistent with the parliamentary nature of the broadcast channel.

There are other things we can do. We can do educational videos, for example. We have one that needs to be updated right now, but the origin of petitions and that kind of thing. Those are the kinds of things that we could put up that are related to the parliamentary process and that are educational in nature.

Mr. Norm Miller: Could we also do something like coverage of other Legislatures, like Westminster, for example?

Mr. Arleigh Holder: No, we wouldn't. That would be something with permission rights. We can probably do it internally, but I don't think we can broadcast it. Again, that would be against the CRTC regulations.

Mr. Norm Miller: I'm just concerned with the trend of us losing coverage, especially losing Star Choice, which really affects rural Ontario terrifically.

The Clerk of the Assembly (Ms. Deborah Deller): As I say, we'll be pursuing that and we'll be reporting back to you to keep you updated and let you know what, if anything, we can do. It strikes me that one of the things we may want to consider is approaching the CRTC to make coverage of legislative proceedings a mandatory thing. This is not something that we in Ontario are concerned with alone. Other jurisdictions have been talking about that as well, and we may want to join with them in approaching the CRTC to do something like that.

Mr. Norm Miller: One other question, just from my perspective of the riding Parry Sound-Muskoka: Does Cogeco distribute the—

The Clerk of the Assembly (Ms. Deborah Deller): Yes.

Mr. Arleigh Holder: Just to let you know, we're not the only channel that Star Choice has dropped. It actually dropped four others, including the CBC channel.

Mr. Norm Miller: Okay, thank you very much.

Ms. Sylvia Jones: When is your CRTC licence up for renewal?

Mr. Arleigh Holder: Currently, Parliaments are exempt from the licence.

Ms. Sylvia Jones: Because you're exempt from the renewal process, could you initiate a change to your licence? Could you initiate that because you don't have to go through the formal renewal process?

Mr. Arleigh Holder: No. If you read this, it exempts us and other Parliaments, all Parliaments. Then it gives strict guidelines to what we can do.

The Clerk of the Assembly (Ms. Deborah Deller): It's likely that in order for these guidelines to be changed, Canadian Parliaments as a collective would have to go to the CRTC. These apply to all Legislatures in the Parliament of Canada.

Ms. Sylvia Jones: Okay. So when they were updated in 2002, was that when the exemption for further renewals happened?

Mr. Arleigh Holder: That was when we were exempted from having to own our own licence. Before that, TVO used to appear before us.

Ms. Sylvia Jones: I'm assuming that when you talk about the one time that you did have some kind of idea of how many viewers there were, you were involved with the BBM? You subscribed to BBM at that point to get those numbers?

Mr. Arleigh Holder: It was Neilsen.

Ms. Sylvia Jones: It was Neilsen; okay. Because the challenge you have with the Bureau of Broadcast Measurement is that they have, I think, six weeks in the spring and in the fall, and of course if the House isn't in session, it may not be quite as high as you would like it.

My second question is: Have you had any staffing or budgetary impacts as a result of the standing order changes in the timing?

The Clerk of the Assembly (Ms. Deborah Deller): We are still assessing the impact. We had a meeting with all of the directors of the assembly at the outset of the standing order schedule changes. We will be having another meeting next week. What we have determined is to take this period of time through to the end of June to get a full idea of what the impact is and assess it and determine how we can sustain it long term.

The Speaker (Hon. Steve Peters): Can I jump in? The intent is that not only the broadcast services—I've spoken with Deb and asked that for everything that takes place within the legislative precinct, the reports be sent to Deb. The plan is that when the standing committee meets to review the changes, we will be able to bring a complete picture of that impact on the whole of the precinct.

Ms. Sylvia Jones: One final question: When you reference your dub requests, are those all internal, or is there an opportunity for outside stakeholders to request them?

Mr. Arleigh Holder: Anyone can request a dub.

Ms. Sylvia Jones: Are they charged for that service?

Mr. Arleigh Holder: There's no charge.

The Chair (Mr. Bas Balkissoon): Mr. Brown.

Mr. Michael A. Brown: I share Mr. Miller's concern. I obviously have a riding that relies greatly on Star Choice as a provider of service to most of my communities, actually, and losing that, we would need an alternative. But it occurs to me that as we are now going to streaming Internet service and there is a convergence, I'm told, of technologies, maybe the answer will be sometime down the road to be using the Internet to actually supply the service to households. Am I just totally off base thinking that they may occur within a relatively tight time frame of four or five years?

Mr. Arleigh Holder: I think it depends on the bandwidth. Right now, the bandwidth is not there to support broadcasts, but perhaps in the future.

Mr. Michael A. Brown: I am attracted to the notion that we ask the Parliament of Canada to work with the CRTC to mandate the broadcast of legislative proceedings.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: I would agree with Mr. Brown. I would support asking the Parliament of Canada to mandate coverage of the provincial Legislatures.

I just want to make one comment about the dubbing discussion that was going on. There are other ways for members, anyway, to get the signal digitalized on your own that are relatively simple, without needing to use broadcast services at all, at least for iTube-quality videos.

The Chair (Mr. Bas Balkissoon): Anybody else? Thank you all very much. I really appreciate your taking the time to be here. With that, we're adjourned.

Mr. Kevin Daniel Flynn: Before we adjourn, Mr. Chair, at some point, I would like to get a report—not on performing the reviews that we're talking about on viewership, but just on some of the processes that are available and what some of their potential costs would be. We know of at least two now: there's Nielsen and BBM. There may be other ways of doing it as well, for all I know.

The Clerk of the Assembly (Ms. Deborah Deller): We can commit to getting that information for you.

Mr. Kevin Daniel Flynn: Thank you.

The Chair (Mr. Bas Balkissoon): Is that good enough?

Mr. Kevin Daniel Flynn: That's fine with me.

Mr. Bob Delaney: Also, just before we adjourn, would it be in order to put a motion on the floor that the committee endorses the Speaker's proposal to carry non-partisan profiles of individual members?

The Chair (Mr. Bas Balkissoon): That's what I was going to raise next. If you want to move it—

Mr. Bob Delaney: All right, I'll move it.

The Chair (Mr. Bas Balkissoon): Does everybody understand that motion? Did you get a copy of it? The Speaker, when he was here the last time, suggested that we have these profiles of all members broadcasted on the channel.

Mr. Delaney has moved it. All in favour? Carried?

Mr. Bob Delaney: I believe I actually have to read the motion, though.

The Chair (Mr. Bas Balkissoon): Is that right?

Mr. Bob Delaney: It's just a minor point.

I move that the committee endorses the Speaker's proposal to carry non-partisan profiles of individual members on the Ontario legislative television broadcast channel at times when proceedings are not broadcast live.

The Chair (Mr. Bas Balkissoon): Mr. Brown.

Mr. Michael A. Brown: Do we want to have a quick discussion of what is non-partisan and how we decide that?

The Chair (Mr. Bas Balkissoon): We had samples from—

Interjection.

The Clerk of the Assembly (Ms. Deborah Deller): Yes, the committee was shown samples of the profiles that we're talking about. They're very brief. They're really just what the parliamentary roles of members are and what riding they represent.

The Chair (Mr. Bas Balkissoon): And a short bio.

The Clerk of the Assembly (Ms. Deborah Deller): And a short bio.

Mr. Michael A. Brown: I've seen these things take on lives of their own. They start out with an original intent and five years later, you would barely recognize projects like this. That's all I'm really asking.

The Chair (Mr. Bas Balkissoon): I suspect that the committee could always review it with the Speaker.

We have the motion from Mr. Delaney. All in favour? Carried.

One other item for the committee—sorry, Ms. Jones.

Ms. Sylvia Jones: I'd like to follow up on what Mr. Brown talked about with bringing forward a motion to see if we can encourage the modification of the CRTC licence. So whether that's a motion from the committee or we have to update the licence—

Mr. Michael A. Brown: That wasn't what I was suggesting. I was suggesting they mandate it for provincial Legislatures; in other words, require the cable companies and the satellite providers to carry the channel.

Ms. Sylvia Jones: So would that be done in the form of putting it in your CRTC licence?

Mr. Michael A. Brown: I think it would be done in instructing the CRTC to carry any and all parliamentary channels in—

The Clerk of the Assembly (Ms. Deborah Deller): It wouldn't affect these guidelines, but it would be an instruction to the CRTC to instruct the satellite and cable companies to carry the—

Mr. Michael A. Brown: What I'm saying is that as a condition of being a satellite or cable company, you would have to do this.

The Chair (Mr. Bas Balkissoon): With regard to your concern: Can we leave it with the Clerk, since she's already exploring what's going to happen to Star Choice, to maybe report back to us, including making it mandatory at that point in time?

The Clerk of the Assembly (Ms. Deborah Deller): What I'm doing as a first step is consulting with the other

Clerks across the country, because some of those will be affected too; for example, British Columbia's carried on Star Choice. So I'm going to consult with them first, because it occurs to me that as much of a collective as we can be, the more successful we'll be in terms of trying to push the issue. So that's the first step. Beyond that, either alone or along with the other jurisdictions, my suggestion would be that we send a strongly worded letter, signed by the Speaker and endorsed by this committee, if possible. But I'll keep you updated on that.

The Chair (Mr. Bas Balkissoon): So the committee has your commitment that you will report back to us. Is that good enough? Okay.

On committee business, we agreed that the Ombudsman will report to this committee. You've all received a report called—I hate to call the title out—Don't Let the Sun Go Down On Me. I just wondered if the committee wants to direct that the Ombudsman appear before us to discuss this report, or are you happy with the written form?

Interjection.

The Chair (Mr. Bas Balkissoon): He said he's happy with the written form.

Mr. Kevin Daniel Flynn: I've read it and I thought it was well written.

Mr. Bob Delaney: I wouldn't mind seeing the guy, personally.

The Chair (Mr. Bas Balkissoon): I'm in the hands of the majority of committee.

Interjections.

Mr. Kevin Daniel Flynn: If you guys want him, I'm happy to—

Ms. Sylvia Jones: I can live without it.

The Chair (Mr. Bas Balkissoon): You can live without it? I think there's a consensus that we just accept the report as written. Okay?

That's it. Thank you all very much. We're adjourned.

The committee adjourned at 1354.

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**Standing Committee on
the Legislative Assembly**

Television broadcast system

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l'Assemblée législative**

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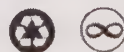
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LEGISLATIVE ASSEMBLY OF ONTARIO

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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 11 June 2008

Mercredi 11 juin 2008

The committee met at 1304 in committee room 2.

TELEVISION BROADCAST SYSTEM

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the Standing Committee on the Legislative Assembly. The only item we have in front of us is the television broadcast system and a report back from the Clerk. Madam Clerk, it's all yours.

The Clerk of the Assembly (Ms. Deborah Deller): Thank you, Mr. Chair. I appreciate the committee coming together on such short notice. I did commit at the last meeting that I was at to reporting back to you on the issue of our satellite broadcast, and I thought it was important that I do that, given that we have moved along with it. I wanted to make sure you did have the update before the House adjourns for the summer.

In brief, Shaw broadcasting system is the company that is under contract with the assembly to provide the distribution of our Ont.Parl signal. What they do is uplink our signal to their satellite, and then it bounces back down. It's unencrypted, which makes it available free of charge to any of the cable companies across the province. That's the first thing.

The signal is currently, without getting too technical, distributed on what's called a Ku band. There is increasing stress for use of Ku band, predominantly because as we move to high-definition broadcasting, it takes up more bandwidth on the Ku band. So the companies like Shaw are under increasing pressure to give up more of their Ku band space to networks like CTV that are increasingly broadcasting in high definition. What they will be doing is transferring us to what is called the C band, which is in fact the signal that we used to be broadcast on when we first started broadcasting Ont.Parl.

The cable companies who want to keep the Ont.Parl signal will have to retune in order to grab the signal from the C band. In some cases, that will mean that they will need new equipment. We are currently working with Shaw to get in touch with the cable operators to ensure that they know of the change, first of all, and to find out if they have compatible equipment.

Shaw has agreed to work with us in terms of making sure we outfit the cable companies with the appropriate equipment, should that be necessary. What we did in 1997 when we went to C band was we contacted all of the cable companies, and we told them that the assembly

would be prepared, in some cases, to subsidize the purchase of the equipment they would need to broadcast. We did that based on the number of subscribers they had, so the smaller cable companies we subsidized for 100% of the cost of the equipment, and then the larger companies were subsidized to a lesser degree, and companies like Rogers, that didn't need any subsidy at all, were not given one. That seemed to satisfy the cable companies.

There was a cost to the assembly. There will be again, should that become necessary. Since many of the cable companies currently do broadcast other channels on C band, many of them likely will not need the new equipment.

We're currently in the process of assessing how much equipment we will need. The equipment would be, if we were to purchase it for each cable company, about \$1,200 apiece. Shaw has offered to offset that and charge us only \$1,000 apiece. The maximum cost to the assembly would be \$200,000. That would be if we were to outfit all 220 cable companies with the equipment we need, which is unlikely.

We will save about \$36,000 a year under the new contract agreement with Shaw, the reason being that because they're moving us from the Ku band to the C band, they're giving us a price break on the contract. This will largely offset any costs that we may have to make the transfer this summer.

What we did then, given that offer from Shaw, was to look at what other providers are out there that might provide us with the same kind of service at a lesser cost. The only other service provider that would be able to take our signal is Telesat. Their offer is more expensive each month. They use different equipment, which means that all the cable companies already airing Ont.Parl would have to have this other brand of equipment in order to broadcast. With Shaw, because they have compatible equipment, it minimizes the cost to the assembly in terms of providing new equipment.

Our inclination at this point is to continue our contract with Shaw at the lesser price, and they will transfer us to C band. That will be done over the summer. The House won't be sitting over the summer, so it will minimize any kind of disruption or interruption of service.

The one other piece to know about this is that TVO is also under contract with the assembly to transmit Ont.Parl to northern Ontario. They get their signal from Shaw satellite and they send it out to remote communities where it can be picked up by local cable companies. They

have 24 what are called repeaters, and some of those may need to be upgraded. Some of them they're doing as their usual maintenance work already this summer. For those, they won't charge us. Any others that need to be upgraded as a result of this change, the assembly will bear some of the cost.

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The second thing, unrelated to this particular issue but happening at the same time, is that Star Choice has notified us that they are going to discontinue providing Ont.Parl on their channel tier this summer. This is a different issue for us, a different service provider, but it's related to the same issue, which is that they're trying to free up bandwidth on their system. We have protested the decision to them, but Ont.Parl, as you recall from the last meeting, is not mandatory under CRTC regulations, so we are unable to require that it be offered. Star Choice has told us they will not reconsider. After this, we approached Bell ExpressVu, asking if they had any interest in taking Ont.Parl on and adding it to their channel tier. They have no interest in doing so.

That brings me to my third and final comment, and that is that at the last meeting I did tell you I was going to canvass the other jurisdictions across the country to see if any of the others are encountering the same situation, and if there would be an appetite for us to all, as a collective, to approach the CRTC and make a request for them to consider mandatory airing of legislative and parliamentary channels on satellite and cable channels.

I have done that and I have received a response from most of the other jurisdictions. None of them is encountering, at this moment, the exact situation we find ourselves in, but others have been in the situation before or are going to be. For example, British Columbia is currently carried on Star Choice. They have just signed a five-year contract with their satellite provider, so they're set for the next five years to be on the Ku band. That does not mean that at some point, without warning, Star Choice may not approach them and remove them from their channel tier as well. So the appetite for approaching the CRTC with this concern and the recommendation to make these channels mandatory is high. Most of the other jurisdictions said they would absolutely join with Ontario in whatever submission we determine to make to the CRTC.

What I would recommend then to the committee, or at least ask for the committee's endorsement on, is that we will beaver away over the next several weeks and months to put together such a submission for you to take a look at, which could go to the CRTC with the signature of the Chair of this committee and the Speaker, and we would share with other jurisdictions and have the same signatures added as well.

The Chair (Mr. Bas Balkissoon): Comments?

The Clerk of the Assembly (Ms. Deborah Deller): Sorry, one other thing I should add is that there is a little bit of serendipity at play in that we did start the webcast of the assembly proceedings, so those are now available for anyone who has access to the Internet.

Mr. Kevin Daniel Flynn: I support the request. If you need a motion to support it, I'd be happy to move that.

But just a question for Deb: Is it an indication, from a commercial perspective, that there's not a whole lot of people watching? Should we interpret it that way?

The Clerk of the Assembly (Ms. Deborah Deller): I think that's what Star Choice is banking on, that they're not going to upset too many of their customers if they take it off their channel tier.

I should tell you that Star Choice has done this across the country, not with legislative channels necessarily. As an example, one of the broadcasts they cut was CBC Saskatchewan, which one would think would be a fairly significant broadcast to cut from their channel tier.

Mr. Kevin Daniel Flynn: We need American Idol.

Mrs. Julia Munro: I would just like to add my voice in terms of supporting you on the issue of making a submission to the CRTC. I think being able to provide this in the province is very important, quite frankly. The kind of opportunity we have through the media generally is fairly selective in terms of who happens to be in the press gallery and what happens there.

When you contrast what we deal with today in terms of the kind of media coverage over what would have happened even 25 or 30 years ago, it would seem to me that there's a really strong argument to support this being something that is mandatory. We don't have 30 small-town newspaper people sitting in the press gallery every day now. Communications is a very different kind of animal than it was in those days. So I think going with Ontario leadership on this issue and getting the support of the other provinces is key to providing that.

Mr. Peter Tabuns: I agree. In a democracy, people need access to this information. The reality is that the means of communication are these cable companies. They have a responsibility to the society as a whole. So I think moving forward with this request makes sense.

Mr. Bob Delaney: To add to the last two comments, at the last meeting I think it was Norm Miller who mentioned Star Choice in his area. I had to file my notice to have a motion to debate. I think I'm up in the fall. In the Orders and Notices paper I think you will find exactly what Julia and Peter referred to. We sat down and drafted it. Essentially, the notice asks the House to support the idea of making it mandatory if you're planning to get or renew a licence.

Mr. Kevin Daniel Flynn: Just one final point: I guess the short-term aim is to keep it on the air. You would think the long-term aim, though, would be to make it a channel that Star Choice would want to pick up in some way.

The Chair (Mr. Bas Balkissoon): I think that's the suggestion, to make the mandatory request.

Mr. Kevin Daniel Flynn: Right, but I mean in the long run. That's making them carry it because you're forcing them to. It would be nice to have ourselves in a situation where the channel—I get a lot of good comments about C-SPAN, is it? It's not just the House of Commons, it's some of the other programming that's on C-SPAN that seems to add to the attraction of the channel. If we were able to do something along those

lines here—I'm talking about in the long term—I think we'd be doing well there.

The Chair (Mr. Bas Balkissoon): Since there's no one else, I'm told that we really don't need a motion. As long as the consent of the committee is there, the Speaker and myself can sign the letter that goes out for that mandatory request, as the initial step.

The Clerk of the Assembly (Ms. Deborah Deller): We'll put together a proposal and make sure the members of this committee have a look at it before we send it anywhere.

The Chair (Mr. Bas Balkissoon): Everybody agrees to that? Okay. Meeting adjourned.

The committee adjourned at 1317.

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First Session, 39th Parliament

**Assemblée législative
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Première session, 39^e législature

**Official Report
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Tuesday 29 July 2008

**Journal
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Mardi 29 juillet 2008

**Standing Committee on
the Legislative Assembly**

Review of provisional
standing orders

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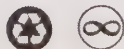
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STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Tuesday 29 July 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mardi 29 juillet 2008

The committee met at 1401 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the Standing Committee on the Legislative Assembly for a review of the provisional standing orders.

Item number 1 on the agenda: If I could have the report of the subcommittee.

Mrs. Carol Mitchell: Your subcommittee on committee business met on Thursday, July 3, 2008, to consider the method of proceeding on the review of the standing orders, and the recommendations are the following:

(1) That the committee meet in Toronto on Tuesday, July 29, 2008, starting at 2 p.m., and on Wednesday, July 30, 2008, starting at 9 a.m., for consultations and discussion.

(2) That the committee meet in Toronto on Monday, August 11, 2008, for report-writing, starting at 9 a.m.

(3) That if more than three meeting days are needed, the committee may determine additional dates at a later time.

(4) That the committee clerk invite the Clerk of the House, the Speaker, the director of broadcast and recording and the director of Hansard to appear before the committee on the afternoon of Tuesday, July 29, 2008, and the morning of Wednesday, July 30, 2008.

(5) That the Clerk of the House be offered 30 minutes in which to make a presentation and that the other presenters be offered 20 minutes in which to make a presentation.

(6) That each party submit the names of three expert witnesses that they would like to invite to appear before the committee on Tuesday, July 29, 2008. These names must be submitted to the committee clerk by 12 noon, Monday, July 14, 2008.

(7) That the expert witnesses be offered 20 minutes in which to make a presentation.

(8) That the committee clerk, with the authority of the Chair, post a notice on the Ontario parliamentary channel and the committee's website requesting written submissions from the public on the changes to the standing orders. The notice is to be posted as soon as possible.

(9) That the deadline for written submissions be 5 p.m., Friday, July 25, 2008.

(10) That the research officer provide information on the total number of hours of debate and the number of bills passed in the spring session of 2008, and provide comparison figures for the spring session of 2007.

(11) That the committee clerk, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Bas Balkissoon): Mr. Kormos?

Mr. Peter Kormos: Thank you kindly. We have but two days to hear from participants in this committee process, and the New Democrats want to make it clear that we remain incredibly disappointed that when the standing order revision proposal was advanced by the government, it was done without any consultation, discussion or even notice to the opposition parties. The purported process of discussion with the government House leader, Mr. Bryant, consisted of consecutive meetings that demonstrated themselves, after the fact, to have been but stonewalling on the part of Mr. Bryant and were a very clumsy effort on the part of the government to feign negotiation when, in fact, there was no negotiation.

We're similarly disappointed that the government has not disclosed any agenda that it might be bringing to this committee process. The New Democrats—and the Tories may well have their own comments to make in this regard, but the Tories have been consistent with the New Democrats—have made it clear that the focus of our concern is the timing of question period. We believe that question period is the highlight of the parliamentary day and that it is best positioned at a time after the noon hour when it is more readily accessible by the public, both in person at Queen's Park and by the media, the press, as well as more readily accommodating hard-working staff of all three parties as well as legislative staff who spend most of their working day focusing on question period and the contents of question period.

We've also been very clear that we understand the government's interest in replacing evening sittings with sittings at other points during the day when the House traditionally did not sit, and we have demonstrated our willingness to sit at 9 a.m. in the morning to engage in debate. However, we note that the attendance at those morning sittings is even more pathetic than it was inclined to be in the late-night evening sittings, although perhaps not quite as raucous, perhaps because people

weren't inclined to consume the same meals for breakfast as they were for dinner, or at least ate breakfast in unlicensed premises, rather than taverns and beer halls. There has regrettably been—I just read Morton Shulman's memoir of his time here at Queen's Park, and he commented on the overt drunkenness of evening sittings, as well as the soporific government backbenchers, one of them, Ellis Morningstar, whom he photographed in the Legislature asleep during a daytime sitting. Of course, that was the first time that there was any record of people smuggling a camera into the legislative chamber and photographing the goings-on.

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We've been very clear: We're prepared to accommodate the government; we're prepared to tweak; we're prepared to do whatever has to be done. And we understand the government has an agenda. It has a legislative agenda, it has a goal and it has a time frame within which it wants to achieve that goal. We have attempted since we came back here after the election to demonstrate our capacity to be collaborative while in no way, shape or form abandoning our role as opposition. We have been co-operative in terms of signalling which bills require less and which bills require more debate time—according to the opposition, at least—and we've been very generous, I believe, in indicating how many members we're going to have speaking to a given piece of legislation, whether it's one member or two members or a whole three-line whip—all 10 members—of that small but mighty NDP caucus. I believe that it is a healthier Parliament when that sort of co-operation is engaged in. However, that sort of co-operation doesn't have to be the case. We would very much like to maintain that, because I also believe it contributes to a greater level of civility.

I want to ask members of this committee to understand clearly that our goal over the course of today, tomorrow and August 11 will be to have this committee recommend that question period be restored to a 1 o'clock slot. During the course of discussion we'll amplify on that. We've got these wacky Tuesdays and wacky Wednesdays where you've got these huge holes during the day. Quite frankly, what happens is that government members, and especially cabinet ministers, simply disappear unless they're the ones who are whipped into House duty. It creates confusing days for the public because there are huge holes. We've also got a ministerial statement disjointed from question period, which makes it very difficult sometimes for our critics to be available with that huge gap in between the two events of the legislative day. We also believe that our staff, as well as legislative staff and other caucus staff, deserve to have a more comfortable time frame within which to prepare for question period.

We could expedite this whole process. I indeed asked Mr. Bryant some time ago—and he was disinclined to respond—and I recall asking Ms. Mitchell during the subcommittee meeting—she was in attendance on behalf of the government; what the agenda was, what things the government was looking forward to, because we can deal

with these quickly; there's probably a whole lot that we can agree on. I similarly would ask the government to let us know now whether there is going to be any consideration of restoring question period to a 1 o'clock, or thereabouts, time slot. Because if there isn't, you're yanking our chain, we're playing games—and it doesn't have to be the case. We have been very candid. We wish the government would be candid as well. The government can do whatever it wishes with the standing orders—and it has demonstrated not only its ability to do so but its willingness to do so—without consultation.

I look forward to the next three and a half years as being productive ones for this Parliament rather than years of antagonism. We can go a long way towards achieving that here and now.

Those are my comments I wanted to make very clear at the onset. Thank you, Chair.

The Chair (Mr. Bas Balkissoon): Mrs. Witmer.

Mrs. Elizabeth Witmer: I would certainly agree with much of what has been said by Mr. Kormos. Regrettably, the changes to the standing orders came about without any negotiation with the members of the opposition. I think we first heard about them when the media had received the information; we received it after the fact. So there was no discussion, there was no debate, there was no opportunity for us to provide any input.

At the end of the day, we want to co-operate with the government, and I do believe that we did co-operate. I think this was a session where the three parties did try to work well together, based on the knowledge of some 18 years that I've been here now. But the main change that we would like to see would be the change of question period, and that would be having it at 1 o'clock in the afternoon. We believe that the current schedule that we have is really quite chaotic. There is a lack of certainty as to when anything is happening, and the early start of question period really makes it difficult for staff and research and many other people to prepare properly. So that would be our number one request.

The other request we would have is that we would have routine proceedings—as I say, if we start at 1 o'clock and then we continue with members' statements, introduction of bills, and statements by ministries and responses, right now I think it's embarrassing to see the number of people, or lack thereof, in the House in the afternoon when many of these things are happening. In fact, I don't think MPPs are as well informed as to what might be in the statements, what the concerns of the public are, what the minister has just announced, what the responses might be, based on the nature of the fact that every day right now is different. There is absolutely no order. We have huge breaks in the middle of the day. As you know, we have the caucuses meeting in the afternoon. I believe that if we were to have an order that took us from 1 o'clock to 6 o'clock or 1 o'clock to 6:30, private members—I think we have to take a look at private members' hour because I think there's less respect today for private members than ever before. It's at the end of the day on Thursday. Most people have fled

this place by then, and there's very little interest. As I say, I just think on the whole MPPs collectively are less well informed as to what's going on in the Legislature with this chaotic schedule we have now, which seems to lack any certainty or any coherence, than ever before.

But at the end of the day, if there is one thing that we would ask to be changed—we'll put up with all the rest—it would be bringing question period back to the afternoon at 1 o'clock.

The other issue for some of our members is the Monday morning sittings. That was one of the things that we wanted to raise. We've talked about trying to accommodate families in this Legislature. As you know, some of our members travel a great distance; they don't have the luxury that I do. I can be here in two hours. But do you know what? Some of them, because of travel arrangements, whether it's flights or if they choose to drive, which would be a long drive, have to leave their families on Sunday nights to get here in time for the Monday morning. As you know, the life of an MPP is such that we're all working Fridays, we're working Saturdays, many of us are working Sundays. Sometimes the only time we have with our families for dinner, based on personal experience, is Sunday night. Some people now are placed in a position where they must leave their families on Sunday night in order to be here in time for the question period meeting, which has to be held at least by 8 o'clock every day. So again, if we're trying to encourage this as a place where parents could participate, whether mothers or fathers, I think we have to take a look at also making sure that the hours would correspond to ones that would meet the needs, as long as we get our work done. So I think we need to take a look at any morning session at any time.

That's all I'm going to say right now, but I hope that we're not sitting here spinning our wheels. I hope that there will be changes made. If not, I think it's regrettable because there will still have been no consultation and no opportunity for input from either ourselves or those who are going to be making presentations. If the government is really sincere and wants to make sure that this Legislature, which doesn't belong to the government but belongs to the people in the province of Ontario, best meets the needs of people in the province, obviously, anything that is recommended during the next couple of days should be carefully considered, and I hope the government is prepared to be responsive.

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The Chair (Mr. Bas Balkissoon): Ms. Mitchell.

Mrs. Carol Mitchell: I'm just going to keep my comments brief. As I stated in the subcommittee meeting, we committed to the review. Quite frankly, we look forward to hearing from the presenters and the discussion that will come forward from the presentations, and further discussion from that as well. So we thank you for taking the time and coming today. Quite frankly, this is in the best interests of the people of Ontario, that we continue to ensure that Queen's Park functions to the utmost ability that it can in order to ensure that the people of Ontario

have the services they require on a day-to-day basis. So we do thank you for participating in the review.

The Chair (Mr. Bas Balkissoon): Okay. Can I have approval of the report of the subcommittee? All in favour? Against? Motion carried.

REVIEW OF PROVISIONAL STANDING ORDERS

The Chair (Mr. Bas Balkissoon): The first deputation, as everybody has been notified, has cancelled out.

KEITH LESLIE

The Chair (Mr. Bas Balkissoon): I understand Mr. Keith Leslie is here, if you wish to come forward. Thank you for being here. You have 20 minutes, and if you could just introduce yourselves for the record.

Mr. Keith Leslie: Absolutely. My name is Keith Leslie. I'm the senior Queen's Park correspondent with the Canadian Press, and with me is Murray Campbell, with the Globe and Mail Queen's Park bureau.

Mr. Chairman, ladies and gentlemen, honourable members, thank you very much for inviting us here today, the press gallery, to appear before you. Let me start by saying I'm much more comfortable holding the microphone and asking the questions, so please bear with me later if I struggle to answer some of your questions.

Our usual role as journalists, of course, is to report on government, to comment about it or just out and out criticize government, to ask it endless questions, not to report to it directly in this type of forum. It's very unusual for us, but I think in this particular case it is appropriate, and it is a recognition of the vital role of a free media in a democratic government. So thank you again for your invitation.

The new timing of question period and cabinet and caucus meetings has directly led to what the press gallery strongly feels is reduced access to cabinet ministers, and that is clearly the biggest concern of the press gallery members. I would also like to say that I miss the old firm timing of private members' bills on Thursdays. Even though there are now three bills a week instead of two, I find the timing has been marginalized by being buried late on Thursdays. Now, that could be just something I have to get used to; it is, after all, change, and it is, as the government says, 50% more time for private members' business. We'll just have to learn to adjust. But I also did manage to miss out on some third reading votes this spring, something I generally try to pay very close attention to. It may be just a matter of getting used to the change and the new schedule, but because these kinds of important votes are now all over the place, it's a little harder for us to keep track of them.

To our main point, though: To say the members of the legislative press gallery are united on the issue of timing of question period or on just about anything else you could possibly think of would be misleading, but there does seem to be near unanimous agreement that having it

end near noon is about the worst of all possible worlds. With question period ending either minutes before or right at noon, all the ministers come rushing out at once. They are probably hungry like the rest of us and are anxious to get out for lunch, although on Tuesdays and Wednesdays they are in a rush to get to their caucus and cabinet meetings now, which are right at noon, at that very same time.

Before, we would wait outside cabinet or caucus meetings—I'm sure most of you have seen us doing this at 9 or 9:30—and we'd have up to an hour, it seemed, or 45 minutes, to scrum and interview different ministers or different government members on their way in. Then we would follow that with a scrum of the Premier. This access was vital to all of us. On Wednesdays and Tuesdays, those access times allowed us to scrum as many ministers as we possibly could on any number of topics. Now, when they all come rushing out at once, you're lucky if you can stop one or two. That's just the reality. Everybody is coming out at once and they are going to many different places, including lunch, and everybody has a 12 o'clock start for something else.

Before, of course, we would have access to those same ministers—even though we'd scrum them Tuesday and Wednesday mornings—when they came out of question period later in the afternoon, and again, because there was still some business going on in the House, whether it was petitions or other business, not everyone came rushing out at once. Ministers tended to come out one or two at a time. There would be conversations in the lounge that kept some others behind, so again, it just gave us a lot more easy access as we were trying to approach cabinet ministers. Everyone now flying out at once makes it very difficult, especially for one-person bureaus, and, as you know, there are more and more one-person news bureaus operating here and everywhere else.

In addition, ending so close to the noon hour or at the noon hour puts our television colleagues and some radio people at a real disadvantage. Most of them are now required to go live on air at noon most days. That, of course, means they can't be in the scrum area following question period, if it ends at quarter to 12; they're getting ready to go on air. In fact, they probably didn't even have time to pay attention to question period if it didn't start until 10 to 11, because that's too late for them to make a noon story out of it, and that means they're going to have to spend that hour looking for a noon story and being prepped to go live at noon. This is the same with a lot of radio people, although they can generally move a little bit quicker because their technology requirements aren't as onerous as those in television. The same thing applies, though: If they can't be in the scrum period following question period and they can't pay attention in question period when it's on, then they're not pitching question period as a noon story.

Question period is always a tough sell for our TV reporters to their producers. Politics is kind of dry and they're looking for much more visual things. It's even harder for the reporters and camera people assigned to

Queen's Park. If they haven't got time to watch it, they can't really make a pitch to their desk that there's an important story coming out of question period. They haven't even had time to look at it. They may look at it later in the day. Again, that's just because we're so tight to that noon timing.

Some of us, including myself, are old enough to have worked around here as reporters when the west turret was full of full-time reporters from Toronto radio stations. Seven or eight Toronto private radio stations kept reporters here. There were two radio networks. There were two news agencies, along with print reporters from London, Hamilton, Ottawa, Kitchener, and TV reporters from those same cities. They're all gone. They are no longer here. There are agencies like myself and CanWest News that fill in some of the holes, but we were here all along; before, those people used to have their own individual voices. They're all gone, save for CFRB radio, which is still here, of course, for Toronto. But all the other privates are gone.

A lot has changed, and quickly, in 21st century journalism, of course. Media mergers and continued 1990s-style downsizing have meant great reductions in the number of news organizations and in the number of them assigning reporters full-time to the Legislature. You can look around this building and just tell that. That means there's a greater dependence on the news agencies like the Canadian Press or our main competition, CanWest News, which is the National Post and CanWest Global Television.

There have been an awful lot of changes. We've seen it all through this building. TVOntario closed its legislative bureau, leaving no one here to cover Ontario politics for the Ontario government-owned TV channel.

But with all that said and all these changes, the noon deadline is still the unofficial start to the news day, especially in the television world, and of course we're all living in a television world, especially in the media. Having question period end at noon makes it near impossible to get a question period story on the noon news. When the bar itself for the noon newscast is much lower—so it's actually easier to get a story on if you've got time to pitch it there. And if you can get a story on the noon news, especially in television, that makes it much easier to pitch that story for a 6 o'clock end-of-day story or a major suppertime or late evening newscast, and you'll have all day to develop it. But if you can't get it on at noon, you can barely pitch it again for 6; you're pitching cold against all those other stories that did get on at noon. So it does make it tougher to get question period—which is the main focus of Ontario politics most days—coverage on.

A firm start time is really what the press gallery would love to see more than anything, a firm start and a firm end time, and one that ends, I would think, by 11:15 in the morning. Something at least 45 minutes before the noon hour would be very important to the press gallery.

Now, whether that comes in the afternoon or the morning is entirely up to the members of the Legislature.

The gallery has differing opinions on morning and afternoon. As I say, the only unanimous opinion seems to be that that close to noon really makes it difficult for virtually all of us.

We've all seen the Ottawa question period on television, and it probably makes better television when you look at it because it's much tighter questions and the responses are much, much tighter. While that might be snappy responses and better TV, ours seems to give us more time for actual debate, and policy discussion seems to actually take place, a little bit at least, during some question periods. So we're not advocating adopting their style from Ottawa, but we would advocate a firm start time, which is something they do have in Parliament, and it makes a huge improvement for everyone. To us, a firm start time would be an improvement not only over what happened last spring but also over what was going on prior to it, when question period could start anywhere from 1:45 up till 3 o'clock and even later. Again, moving it at least 45 minutes away from the noon hour would be a great help.

We won't comment on the government's professed goal to make the Legislature more family-friendly and to encourage more young women, mothers in particular, to consider a career in public life, other than to admit that few journalists are really going to miss the night sittings. In fact, I'd venture to say that very few even noticed that the night sittings were gone, except for Eric Dowd, the dean of the gallery, who as you all know was here every night watching every last one of those debates—so someone was here keeping those debates honest. I myself last remember covering an evening debate in 1987, but Murray tells me he covered one on the adoption bill late last year or earlier this year, so they weren't totally without media coverage. But for the most part, I don't think you'll find us complaining about them being missed.

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Again, our bottom line is access to the ministers, more than anything, and trying to move question period just a little bit away from that noon crunch time for us.

Any questions?

The Chair (Mr. Bas Balkissoon): No more comments?

Mr. Murray Campbell: No.

The Chair (Mr. Bas Balkissoon): You're just accompanying him?

Mr. Murray Campbell: I'm here for moral support.

The Chair (Mr. Bas Balkissoon): Okay. We have about eight minutes, so we'll split it up three ways, two and a half each. Ms. MacLeod.

Ms. Lisa MacLeod: I appreciate you folks coming in today: It was great to hear. After listening, of course, I know that this is not family-friendly, it's now not filing-friendly, but it certainly is cabinet-friendly.

I wanted to thank you both for attending and talking about some of the issues that the gallery is facing, because, quite honestly, private members' business has been getting significantly reduced coverage for some of the great ideas that we're putting forward. I note the bill

on income splitting: It didn't get as much press as I would have hoped, and it was a substantial debate in terms of public policy. I think it's also an interesting and very valid point that our votes aren't consistent and that it's more difficult for the press to bring that forward.

I do have a couple of questions—just three. In your opinion, what is the most detrimental to access to ministers in the new standing order changes?

Mr. Keith Leslie: I would think it would be the changing of caucus and cabinet meetings to immediately after that noon ending of the House or ending of question period. That's really, really restricted our access to ministers. It's taken away basically two days of access to ministers.

Ms. Lisa MacLeod: And that would be probably near to unanimous consent among your members?

Mr. Keith Leslie: As close as we're likely to get in a press gallery, yes.

Ms. Lisa MacLeod: Okay, yes. It's just like politics.

Mr. Murray Campbell: I would agree. There was a certain momentum to the Tuesday morning pre-caucus and pre-cabinet sessions, in which the ministers would come in one by one and answers would feed other questions. By the time we saw the Premier on both those days, there was a sense of momentum.

Ms. Lisa MacLeod: That actually leads me to my second point, then: Has the media coverage of Queen's Park and the news analysis of some of the stories that we generate suffered as part of these new changes? Is there a decline?

Mr. Murray Campbell: I would think it's too early to judge.

Mr. Keith Leslie: I don't know that we could say that it's suffered. It's changed because we're all trying to change our day around. As I say, I may have missed a couple of votes, but I certainly caught up to them by the end of the day and made sure I interviewed the appropriate people and gave them the coverage that I wanted to give.

Certainly, private members may get a little less attention from—I mean, it is something I always did pay attention to, because it gets the Canadian Press into all those smaller communities that we like to get out into. But again, that may just be a matter of readjusting my schedule, if there's more private members' time, to focus on it more Thursday afternoons instead of the morning. But in the short term, you've spoken a little less.

Ms. Lisa MacLeod: I certainly appreciate that, coming from one of those smaller communities that does rely on CP from time to time. Some of those issues were being carried and I have noticed a decline.

My final question, then: We have put forward in the Progressive Conservative caucus for our House leader, Mrs. Witmer, some substantial changes to the standing order changes. It would start at 9:30 in the morning, with routine proceedings going from 1 until 6, starting with question period at 1, and with Tuesday caucus meetings back to the normal time; as well as private members' business at 9:30 in the morning until noon, to go back to what was previously agreed upon.

minority from being heard, as was asserted by Michael Prue. What is somewhat puzzling to me, however, reading the debate, are the implications of the timing for committee meetings, an issue raised by some MPPs, but I didn't think adequately addressed by the government.

Norm Sterling's proposal to allot a fixed time for opposition members to respond to ministerial statements appears to me to be a good one. He suggested that if ministerial statements take 20 minutes, then opposition members be allotted 10 minutes.

He also had a good point about the softball questions coming from government backbenchers. They are, in my opinion, a waste of time and reflect badly on the backbenchers raising them.

The changes in the standing orders came into effect at the beginning of May, I understand, and the House rose weeks later, on June 18. I cannot say, as a sometime-observer of provincial politics, that I have noticed much difference in media coverage or in other respects. The elimination of regular evening sittings appears reasonable and uncontested in light of all the parties supporting the idea. The revised standing orders provide for more debate time as well, which seems positive if all parties think that more debate is valuable.

We've had a trial period under the provisional standing orders. I suspect the changes, particularly with respect to the time of question period, have not been as negative as opposition members alleged they would be. The changes include rescheduling when, and for how long, private members' bills are debated. The objection that their debate is moved to Thursday afternoon when relatively few MPPs are expected to attend is less important, to my mind, than that private members' bills will receive substantially more time for debate. If MPPs do not attend those debates, they indicate that the bills are not as important to them as the other important duties they perform.

The public relies on the media for news of the Legislature, but this does not mean that the Legislature ought to bend itself to meet the media's preferences. My sense is that relatively few people watch midday newscasts, a concern, as we heard, of many in the media. If important newsworthy issues arise during question period, they will be featured on the supertime and late-evening TV news, which attract larger audiences. Many in the public rely on newspapers, radio and the Internet for their news, so to focus on TV's scheduled newscasts gives them, perhaps, an inflated status they may not deserve.

In my estimation, too much has been made by some in the media of question period's move to the morning. Global TV interviewed me about the change when the proposal was introduced, and I found their questions and interest self-serving. They focused on accommodating their noonday broadcast schedule. If the Legislature caters to the media's agenda—to its pace, its logic—it actually debases itself. It puts the media's cart before the legislative horse. And I would say the same about the media, whose primary job is to report what happened rather than when it happens.

The Hamilton Spectator, the Sudbury Star, the Toronto Star and the Collingwood paper endorsed the standing order changes. The media's position as expressed in a letter from those in the Legislature's press gallery, therefore, is not unanimous. The main media complaints, I believe, are from the TV stations, but their news coverage does not offer the depth of newspapers. Moreover, there's an increasing reliance on the Internet. The 24-hour news cycle makes the timing of question period less significant. In any event, it is the concerns of constituents and the members that ought to drive question period, rather than the latest sensationalist headline or newflash. The question of question period's timing is certainly no freedom-of-the-press issue, as alleged by Mr. Kormos's colleague Cheri DiNovo.

1450

In Ottawa and other provincial jurisdictions there are some morning question periods, without much controversy or consequence. One Ontario Conservative minister said a few years ago that question period does not mean answer period. That is sad and in my opinion is more significant than question period's timing. As Norm Sterling said in debate, if ministers do not answer questions, it doesn't much matter when question period is held. Accountability and ministerial responsibility are compromised in the absence of information and straightforward answers.

One objection raised by the media regarding the change to question period is that they will have less opportunity to scrum ministers. In Ottawa, however, the limitation on ministers being scrummed has not been a function of question period's timing, but of the decision of the government, specifically the Prime Minister's office.

I do not subscribe to the objection by some that the new rules limit meetings between MPPs and interest groups. The meetings will simply occur at different times. I do not believe that any interest groups have come forward to object to the standing order changes, but I might be mistaken. There's been little public response to the changes, I suspect, because in my opinion they do not alarm the public.

The most important rationale for changes in the standing orders must be whether they are consistent with the Legislature's role and the duties of its members. On this score, there seems to be no *prima facie* problem with the change of time for question period, the curtailment of evening sittings or when private members' bills are debated. There is consensus among the parties and the media that evening sessions are not as productive or as constructive as the day sessions.

In Britain, question time, as it is known there, occurs in the first hour of business Monday through Thursday. No question time is held on Fridays. Question time begins at 2:35 on Mondays and Tuesdays, 11:35 on Wednesdays and 10:35 on Thursdays. In Australia and New Zealand, it begins at 2 p.m. It would be interesting to know why the government reportedly—I picked this up in the debate—rejected legislative staff's proposal for

question period at 1 p.m. As for the criticism by the Conservatives that this change to the timing of question period was done arbitrarily by the government, I note that a Conservative government proceeded in such a fashion when it was in office and the changes had substantially greater implications for the government's operations.

In Britain—well, maybe I should just leave you time for questions and make one other comment about my observations about the Legislature. I had some things to say about the Liberals' campaign promises in 2003 respecting the Legislature, but let me end on this: As someone who also deals with constitutional issues, I was startled to see a few years ago that the budget was introduced at a private, corporate facility rather than in the Legislature as is the constitutional convention. Increasingly, spending and taxing measures are first announced outside of the Legislature or in the media. Similarly, I understand that the government leaked to the media the proposed changes to the standing orders before they were introduced into the House. This further degrades the status of the provincial Parliament and ought not to be tolerated. It is regrettable and ought to be critically commented upon and reprimanded, I believe, by the Speaker, for it detracts from your privileges as members and from the House as an institution.

The changes to the standing orders mean reorganized schedules for members and the media. I predict that in coming years, if a government proposes to revert to afternoon question periods or to reschedule the time for private members' bills and to reduce time for their debate or to reinstitute evening sessions, such proposals will be vigorously opposed also as an assault on democracy. The provisional changes in the standing orders, in my opinion, are no such threat.

The Chair (Mr. Bas Balkissoon): Thank you. We have about a minute and a half each. Mr. Kormos.

Mr. Peter Kormos: Thank you kindly, Professor. You had prepared written material and you only gave us an excerpt from it. Do we have—

Dr. Nelson Wiseman: I'm going to send it within the next 24 to 48 hours.

Mr. Peter Kormos: I appreciate that, sir.

Ms. Broten and I made eye contact on your reference to the ban on note-taking. I recall reading the history of that and the proprietary interest of Hansard and so on. The Clerk may well illuminate that for us.

Look, quite frankly, I think you've given us some sobering counsel in general. Maybe some of the things that we'll end up talking about on August 11 will not be specifically addressing the standing order revisions, but may be part of a report that could reflect on the responsibility we have in terms of question period and the role of individual members, as well as conduct in the chamber.

Dr. Nelson Wiseman: I wanted to talk about conduct in the chamber, which I think is vital. I'm sure you've seen Prime Minister's Question Time on CPAC, and what is striking is the higher calibre of debate, the light-heartedness, the banter—the not constant vilification of

members opposite. It's a joy to watch and it's informative, and it's only held once a week.

Let's remember that Westminster is the template for our Canadian Legislatures. But every Legislature—I've just picked up today that question period here is conducted somewhat differently than in Ottawa. I've rarely seen it here; I'm not available at 2:30 in the afternoon, or I won't be at 10:45, to watch it regularly. Unless the media cover it, and they're only going to show a tiny excerpt, I won't see it. But I appreciate your point, and I think civility is the most important thing in the conduct of the Legislature.

One of the things we're seeing is that there appears to be a high level of cynicism and distrust in the political system and in politicians—

The Chair (Mr. Bas Balkissoon): Can I get you to wrap up?

Dr. Nelson Wiseman: —and it's interesting because it happens at the same time that we have a more educated electorate than ever.

Mrs. Carol Mitchell: I do want to thank you, Professor Wiseman, for coming in today. You really have given what you have presented today a great deal of thought, so I sincerely thank you.

When you talk about civility, certainly from the government's point of view this is one of the things that we hoped, quite frankly, would have a great deal of discussion.

One of the things that I know we've talked about is private members' business and what we can do to ensure that it continues to be at the forefront for backbenchers. It's a very important bill when a private member's bill comes forward. It's listening to your communities.

One of the things that I'm sure you have come across in the reading material that you have certainly gone through is co-sponsorship, when we talk about civility and what we can do to have all parties work together more. Do you feel that by co-sponsoring private members' bills, that might be one way of overcoming some of the differences that we have through partisanship?

Dr. Nelson Wiseman: That's an interesting point. I think that's for you to decide. I'm not a good enough or close enough observer of private members' bills, and I didn't pick up much debate on it. Somebody like Graham White probably would be in a better position.

But I'll tell you what did strike me as I read that. Also in my office was lying around—the Liberal Party in 2003 issued something called a new Democratic Charter for Ontario. It claimed that the Liberals, if they got elected, which they did, would transform the way politics in Ontario works by “restoring power to the people”—I'm quoting. It promised, in the words of the current Premier, to take power away from backroom people and ensure people's elected representatives are more than just puppets for political parties. It said that elected representatives need more clout. It also promised a law requiring cabinet ministers and the Premier to attend two thirds of question periods in any legislative session or have their salaries docked. It said that the government

minority from being heard, as was asserted by Michael Prue. What is somewhat puzzling to me, however, reading the debate, are the implications of the timing for committee meetings, an issue raised by some MPPs, but I didn't think adequately addressed by the government.

Norm Sterling's proposal to allot a fixed time for opposition members to respond to ministerial statements appears to me to be a good one. He suggested that if ministerial statements take 20 minutes, then opposition members be allotted 10 minutes.

He also had a good point about the softball questions coming from government backbenchers. They are, in my opinion, a waste of time and reflect badly on the backbenchers raising them.

The changes in the standing orders came into effect at the beginning of May, I understand, and the House rose weeks later, on June 18. I cannot say, as a sometime-observer of provincial politics, that I have noticed much difference in media coverage or in other respects. The elimination of regular evening sittings appears reasonable and uncontested in light of all the parties supporting the idea. The revised standing orders provide for more debate time as well, which seems positive if all parties think that more debate is valuable.

We've had a trial period under the provisional standing orders. I suspect the changes, particularly with respect to the time of question period, have not been as negative as opposition members alleged they would be. The changes include rescheduling when, and for how long, private members' bills are debated. The objection that their debate is moved to Thursday afternoon when relatively few MPPs are expected to attend is less important, to my mind, than that private members' bills will receive substantially more time for debate. If MPPs do not attend those debates, they indicate that the bills are not as important to them as the other important duties they perform.

The public relies on the media for news of the Legislature, but this does not mean that the Legislature ought to bend itself to meet the media's preferences. My sense is that relatively few people watch midday newscasts, a concern, as we heard, of many in the media. If important newsworthy issues arise during question period, they will be featured on the supertime and late-evening TV news, which attract larger audiences. Many in the public rely on newspapers, radio and the Internet for their news, so to focus on TV's scheduled newscasts gives them, perhaps, an inflated status they may not deserve.

In my estimation, too much has been made by some in the media of question period's move to the morning. Global TV interviewed me about the change when the proposal was introduced, and I found their questions and interest self-serving. They focused on accommodating their noonday broadcast schedule. If the Legislature caters to the media's agenda—to its pace, its logic—it actually debases itself. It puts the media's cart before the legislative horse. And I would say the same about the media, whose primary job is to report what happened rather than when it happens.

The Hamilton Spectator, the Sudbury Star, the Toronto Star and the Collingwood paper endorsed the standing order changes. The media's position as expressed in a letter from those in the Legislature's press gallery, therefore, is not unanimous. The main media complaints, I believe, are from the TV stations, but their news coverage does not offer the depth of newspapers. Moreover, there's an increasing reliance on the Internet. The 24-hour news cycle makes the timing of question period less significant. In any event, it is the concerns of constituents and the members that ought to drive question period, rather than the latest sensationalist headline or newflash. The question of question period's timing is certainly no freedom-of-the-press issue, as alleged by Mr. Kormos's colleague Cheri DiNovo.

1450

In Ottawa and other provincial jurisdictions there are some morning question periods, without much controversy or consequence. One Ontario Conservative minister said a few years ago that question period does not mean answer period. That is sad and in my opinion is more significant than question period's timing. As Norm Sterling said in debate, if ministers do not answer questions, it doesn't much matter when question period is held. Accountability and ministerial responsibility are compromised in the absence of information and straightforward answers.

One objection raised by the media regarding the change to question period is that they will have less opportunity to scrum ministers. In Ottawa, however, the limitation on ministers being scrummed has not been a function of question period's timing, but of the decision of the government, specifically the Prime Minister's office.

I do not subscribe to the objection by some that the new rules limit meetings between MPPs and interest groups. The meetings will simply occur at different times. I do not believe that any interest groups have come forward to object to the standing order changes, but I might be mistaken. There's been little public response to the changes, I suspect, because in my opinion they do not alarm the public.

The most important rationale for changes in the standing orders must be whether they are consistent with the Legislature's role and the duties of its members. On this score, there seems to be no *prima facie* problem with the change of time for question period, the curtailment of evening sittings or when private members' bills are debated. There is consensus among the parties and the media that evening sessions are not as productive or as constructive as the day sessions.

In Britain, question time, as it is known there, occurs in the first hour of business Monday through Thursday. No question time is held on Fridays. Question time begins at 2:35 on Mondays and Tuesdays, 11:35 on Wednesdays and 10:35 on Thursdays. In Australia and New Zealand, it begins at 2 p.m. It would be interesting to know why the government reportedly—I picked this up in the debate—rejected legislative staff's proposal for

question period at 1 p.m. As for the criticism by the Conservatives that this change to the timing of question period was done arbitrarily by the government, I note that a Conservative government proceeded in such a fashion when it was in office and the changes had substantially greater implications for the government's operations.

In Britain—well, maybe I should just leave you time for questions and make one other comment about my observations about the Legislature. I had some things to say about the Liberals' campaign promises in 2003 respecting the Legislature, but let me end on this: As someone who also deals with constitutional issues, I was startled to see a few years ago that the budget was introduced at a private, corporate facility rather than in the Legislature as is the constitutional convention. Increasingly, spending and taxing measures are first announced outside of the Legislature or in the media. Similarly, I understand that the government leaked to the media the proposed changes to the standing orders before they were introduced into the House. This further degrades the status of the provincial Parliament and ought not to be tolerated. It is regrettable and ought to be critically commented upon and reprimanded, I believe, by the Speaker, for it detracts from your privileges as members and from the House as an institution.

The changes to the standing orders mean reorganized schedules for members and the media. I predict that in coming years, if a government proposes to revert to afternoon question periods or to reschedule the time for private members' bills and to reduce time for their debate or to reinstitute evening sessions, such proposals will be vigorously opposed also as an assault on democracy. The provisional changes in the standing orders, in my opinion, are no such threat.

The Chair (Mr. Bas Balkissoon): Thank you. We have about a minute and a half each. Mr. Kormos.

Mr. Peter Kormos: Thank you kindly, Professor. You had prepared written material and you only gave us an excerpt from it. Do we have—

Dr. Nelson Wiseman: I'm going to send it within the next 24 to 48 hours.

Mr. Peter Kormos: I appreciate that, sir.

Ms. Broten and I made eye contact on your reference to the ban on note-taking. I recall reading the history of that and the proprietary interest of Hansard and so on. The Clerk may well illuminate that for us.

Look, quite frankly, I think you've given us some sobering counsel in general. Maybe some of the things that we'll end up talking about on August 11 will not be specifically addressing the standing order revisions, but may be part of a report that could reflect on the responsibility we have in terms of question period and the role of individual members, as well as conduct in the chamber.

Dr. Nelson Wiseman: I wanted to talk about conduct in the chamber, which I think is vital. I'm sure you've seen Prime Minister's Question Time on CPAC, and what is striking is the higher calibre of debate, the light-heartedness, the banter—the not constant vilification of

members opposite. It's a joy to watch and it's informative, and it's only held once a week.

Let's remember that Westminster is the template for our Canadian Legislatures. But every Legislature—I've just picked up today that question period here is conducted somewhat differently than in Ottawa. I've rarely seen it here; I'm not available at 2:30 in the afternoon, or I won't be at 10:45, to watch it regularly. Unless the media cover it, and they're only going to show a tiny excerpt, I won't see it. But I appreciate your point, and I think civility is the most important thing in the conduct of the Legislature.

One of the things we're seeing is that there appears to be a high level of cynicism and distrust in the political system and in politicians—

The Chair (Mr. Bas Balkissoon): Can I get you to wrap up?

Dr. Nelson Wiseman: —and it's interesting because it happens at the same time that we have a more educated electorate than ever.

Mrs. Carol Mitchell: I do want to thank you, Professor Wiseman, for coming in today. You really have given what you have presented today a great deal of thought, so I sincerely thank you.

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But I'll tell you what did strike me as I read that. Also in my office was lying around—the Liberal Party in 2003 issued something called a new Democratic Charter for Ontario. It claimed that the Liberals, if they got elected, which they did, would transform the way politics in Ontario works by “restoring power to the people”—I'm quoting. It promised, in the words of the current Premier, to take power away from backroom people and ensure people's elected representatives are more than just puppets for political parties. It said that elected representatives need more clout. It also promised a law requiring cabinet ministers and the Premier to attend two thirds of question periods in any legislative session or have their salaries docked. It said that the government

MPPs who were not cabinet ministers would be free, with some exceptions, to vote against government legislation.

This made me wonder, has this actually been the practice?

Mrs. Carol Mitchell: I'm pleased to tell you that it is the practice, and what we're talking about is going further with the democratic process. That's what this review is about. We committed to the review. We are committed to moving forward the democratic process, ensuring that all members have a strong voice. That's what this is about, and that's why my question on the co-sponsorship.

1500

The Chair (Mr. Bas Balkissoon): Can I get you to keep it short? You've got about 10 seconds.

Dr. Nelson Wiseman: Well, if you can get co-sponsorship, that speaks very well. But again, I'm not an expert in procedure. Even if the bill passes, isn't it up to the government whether it calls it for a final vote? So if the government doesn't like the bill—you could have the NDP and the Conservatives co-sponsoring the bill—it just dies; or even if it's a Liberal backbencher or three from the three different parties.

The Chair (Mr. Bas Balkissoon): Thank you very much. Mrs. Witmer.

Mrs. Elizabeth Witmer: Thank you very much, Professor Wiseman. You indicated, I think, in your remarks that you had some concern about the manner in which the changes were made, in that the media had access to the information before it was shared with the opposition parties and there was a lack of negotiation. Mrs. Mitchell talked about democracy and that this is what it was all about.

If indeed now we're reviewing these changes, how would you propose that it be done in order that the outcome would indeed represent what we've heard here today and not just the opinion of the government in power? What should happen now?

Dr. Nelson Wiseman: I don't think it should just be based on what you hear today and August 11 and tomorrow. I read your debate. There were a lot of concerns. The ideal arrangement is for the House leaders to work out a program which suits everyone's agenda. These changes, from what I made out in the debate, are a lot less controversial than what was done in the early 1990s when the NDP made changes and then when your party was in power. So it seemed to me that these kinds of changes, especially with respect to more time for private members' bills, for eliminating most evening sittings, are something there isn't that much difference on. The main sticking point, it seems to me, is question period and—

Mrs. Elizabeth Witmer: The time of.

Dr. Nelson Wiseman: The time of. Look, the time of question period is a lot less relevant than if the House only meets 40 days of the year as opposed to 150 days of the year, because then there is no question period at all. So how does that make for accountability? I'm not as concerned about the media. I think we become adjusted

to a certain cycle. And I ask you. The changes were made—and I haven't been to the Legislature—on May 1. You sat until June 18, was it? You had a change of schedule, but was it that negative, was it that bad? I can't tell as an observer of and a consumer of news—and I primarily rely on the newspaper—that it makes much difference.

The Chair (Mr. Bas Balkissoon): Mr. Wiseman, thank you very much for taking your time to come and present to us and for expressing your candid opinions.

Dr. Nelson Wiseman: Thank you, and best wishes in your deliberations.

CLERK OF THE ASSEMBLY

The Chair (Mr. Bas Balkissoon): The next deputant is Deborah Deller, the Clerk of the Legislative Assembly. Are the two members of your staff joining you with your presentation, or are they going to answer questions?

The Clerk of the Assembly (Ms. Deborah Deller): They'll do both. But there are really two components to the presentation. One is the more procedural side and the other is the administrative side, and when we get to that they'll join me at the table in case I miss anything.

The Chair (Mr. Bas Balkissoon): Okay. We had allocated 30 minutes for you.

The Clerk of the Assembly (Ms. Deborah Deller): Okay. I am a Clerk, so I am much more accustomed to sitting quietly at the end of the table and listening than I am to participating in the discussions. So I have—so that I don't get off track—prepared some remarks. They are probably more formal than I am usually accustomed to giving. I hope you'll forgive me, but I'm not intending to preach here. What I would like to do, though, is provide some contextual background for both my remarks and I think what these committee deliberations are about.

The standing orders are but one element of what makes up the procedural authority of a Parliament. They're combined with years of precedent and practice, convention, a myriad of constitutional requirements and, finally, reference to authoritative procedural volumes on practice in other jurisdictions. They by and large emanate from and must remain faithful to the principles of parliamentary law and responsible government. It's important for anybody engaged in a review of the standing orders to understand and safeguard those principles underlying the system in order to protect it. For example, if you were to consider altering—not changing the time of but altering—the nature of question period, it's important for you to understand the historical significance that it's an elemental feature of responsible government and that any change made to it should not impact negatively on its effectiveness. However, our parliamentary traditions and the procedures that support them have been adapted over time to best meet the needs of a modern society and then, by extension, the modern member. Here again, question period serves as a good example. In Ontario, over time, question period has evolved fairly dramatically, and the

proceeding as we know it today has really only existed since 1971.

That the standing orders must safeguard the fundamental principles of parliamentary law need not conflict with the notion that they should also include provisions that best suit the members and provide some balance between the rigours of the Legislative Assembly and the considerable additional demands on the members' personal and professional lives.

While I think there are lots of elements of our standing orders that could stand review, I don't think it's surprising that the most recent set of changes focused on the daily schedule of the House and that this has been the source of significant concern. Members already have enormous pressures on their time; Ms. MacLeod has reminded us of that a few times. You race from the House to committee to the riding for events or party functions and then back to the House, all the while trying to squeeze in some personal and family time. Whatever other consequences any changes in the daily schedule have, it is really important that you develop one that is in your own best interests as members.

I have no doubt that when we get to questions today, you'll have some questions for me on how the change in the daily House schedule has impacted on the operations of the Office of the Assembly, and I will share that information with you. However, whatever we or anyone else has to say on the subject needs to be put into some context. At the end of the week, when all of you are back in your ridings attending openings, anniversaries, constituency functions, association meetings and all manner of other events necessary to the job of being a member, most of us will be taking the weekend to unwind. The hours that the House meets must first and foremost work for you, the member. Our job as staff of the Legislative Assembly is to do whatever is required to support the House whenever it meets.

That said, from a dispassionate standpoint I can offer these observations and suggestions for some consideration.

There has been much discussion around the timing of question period. The only common ground that I think I have noted in your discussions is that everyone seems to agree that it probably should have a consistent start time.

The positioning of question period in the morning or in the afternoon is really not something that I can give an opinion on. I'm not privileged to the detail of what is involved in preparing for asking questions or for answering them, and so I'm not in a position to understand whether or not the timing of it has any consequence on its effectiveness. That's a question I think again is best addressed by the members themselves. I would venture to guess that the better prepared both sides are for questions and answers, the better question period will be.

With respect to the balance of the proceedings, whether or not they occur in the morning or in the afternoon you might want to consider reuniting routine proceedings and having them considered within one time period: first, because splitting them up into two separate

parts of the day I think has caused the spotlight to shift away from what I believe are other important aspects of House business, such as the introduction of bills, motions, ministerial statements; and, second, from a purely selfish point of view, putting the routine proceedings all together helps us a lot for a more coherent presiding officer's schedule and it doesn't cause the Speaker to be taking the chair in the middle of a proceeding without any kind of pause or announcement.

To use a word used by my Deputy Clerk, the current schedule, from our point of view at the table, tends to be a little bit "clunky." There's a fair bit of stopping and starting, which interrupts the flow. Assuming routine proceedings continued to be split, that clunkiness might be mitigated somewhat by a more formal pause between one proceeding and an announced commencement of the next by way of bells. One possible consideration, for example, might be to have the morning debate time end 10 or 15 minutes before the start of question period, perhaps having a morning debate from 9 to 10:45, a recess until 11 o'clock, with an 11 o'clock start time for question period. This has the advantage of ensuring a defined start time for question period every day and it allows for the bells to ring to call the members in for question period.

1510

Depending on the need for debate time, you might also consider having the morning meetings scheduled in the same way that night meetings were previously scheduled under the old rules; that is, that the government House leader could schedule them by motion, with proper notice. That way they could be scheduled as required, and we wouldn't find ourselves in the situation of suspending the proceedings when the full time allotment isn't required, as we saw in the run-up to the summer adjournment.

Private members' public business: From our point of view, we think that it's a good thing that there are three, as opposed to two, items of private members' business being considered every week; that's a step forward. My personal opinion is that the entire process for consideration of private members' public business is something that should be the subject of a further review. That private members' bills currently languish in a variety of standing committees is probably not a good thing either, so this committee may want to consider some time down the road taking a look at the whole issue of private members' public business. Some things that they're doing in other jurisdictions are fairly interesting in that regard. For example, some jurisdictions have a committee that looks at private members' bills that have gone through the system and determines which bills should move forward. So there are all kinds of things that you could think about with respect to the consideration of private members' public business.

With respect to the altered requirement in the standing orders from a certain number of days required for some debates to a certain number of hours required, generally I think this has the potential to improve the quality of

debate in the House. It allows for more flexibility for the day's business by allowing the House to move from one item of business to another.

I assume the downside from a whip's point of view is that he or she may have to find members to speak on more than one subject on any given day. But it strikes me that it will lead to a greater need for negotiations between the House leaders, and that might not be a bad thing. I'm still naive enough to think that this may be the beginning of a process whereby the House leaders will arrange for less debate on the more non-contentious issues in favour of longer debate on the contentious ones.

I would like to just say a word about introduction of visitors. I should probably state candidly off the top that I'm not a big fan of visitors other than visiting dignitaries being introduced in the House. There's really no efficient way of doing it. It interrupts the business of the House, members feel pressured into introducing guests whether they want to or not, and there's always a risk that someone who's not introduced is going to get offended or hurt. As an example, the pages, who are 12- and 13-year-old kids, sometimes have a difficult time understanding why a member will stand up on one occasion and introduce the parents, grandparents, brothers and sisters of one page, and that for another page, maybe even on the same day, who has family and guests in the gallery, they don't get introduced. Finally, it can be used—and has been used—by members as a means to making a political statement. That said, if you are to have a proceeding to introduce guests, it needs to have some guideline around it, and I think that's what the provisional standing orders tried to do.

Currently, it's designated to occur right before question period, which I guess is the time of day, arguably, when most guests are in attendance. But I did observe on more than one occasion that introductions were being made for guests who weren't actually in the gallery at the time they were introduced. I hesitate to say this next bit because I'm afraid it might exacerbate the problem, but I suppose a solution to that is having more than one period during the day when guests are introduced. I'm going to leave that hanging.

There has been some discussion among some members, some comments made at the table that some members would prefer to introduce guests themselves rather than have the Speaker do it. The current arrangement at least ensures that it's done at the appropriate time and that the introduction doesn't slide into the realm of the political or get too long.

With respect to the administrative impact of the altered House hours, I just would like to tell you a little bit about what we did. Since the potential for any impact on the ability of the staff of the Office of the Assembly to provide the same standard of service was real, I convened two meetings of the branch directors. The first meeting was held a week before the provisional standing orders came into effect and was intended to identify, anticipate and address any kind of problems that we foresaw as a result of the change in schedule. The second was held

about five weeks after we started with the new schedule to determine what, if any, actual impact there had been.

Let me start by saying that, in general, the addition of the morning meetings has not had serious consequences on the ability of staff to provide the same level of service to the House—and hopefully, you didn't notice a reduction in any service to the House. I should, however, qualify that phrase by saying that we're all cognizant of the fact that the House didn't meet for all of the hours available to it in the spring sitting. The test period was perhaps not as rigorous as it might have been, and the resulting evaluation of our service provision should take that into consideration.

I'm going to ask Arleigh and Peggy to come up. I'm going to briefly summarize the findings of those meetings, because there were more branches involved than just Hansard and broadcast and recording. They'll go into some more detail or pick up the pieces where I've left them out and be happy to answer questions for you as well.

With respect to Hansard, while we anticipated that there might be a delay in service—and that's primarily because formerly what we were looking at for a daytime sitting was a volume that consisted of about 4.5 hours of speaking time and then maybe an additional 2.75 hours in the evening, but we didn't publish that for the next morning. Now what we were looking at with the current schedule was about eight hours that had to be published for first thing the next morning. So we anticipated that there might be some delay in when we could actually provide Hansard in hard copy and up on the Internet. That didn't happen, but again, there were a number of early adjournments, and obviously that had an impact on that service.

At this time, we don't anticipate any kind of need for additional resources. We have been posting the drafts of Hansard within one hour of the spoken word, although that doesn't occur in the morning up to 11 o'clock, because question period obviously impacts the ability of Hansard reporters to get that work done. However, there was only a very slight delay in posting, and I don't think we received any calls from any member about the Hansard not being posted on the Internet in time. I will say that the provision of laptops for the Hansard reporters in the chamber helped us a lot with maintaining the delivery standard.

We have had to do a staggered shift, which may seem kind of odd. The House is not sitting at night anymore, and it may seem odd that we need to do a staggered shift, but in fact from before 9 o'clock until after 5:45 every day is obviously longer than an 8.25-hour day. The staff is there in the morning, and we also need to have the staff there at the end of the day, so in order to do that we've created staggered shifts. That's a little bit difficult for everybody to get used to, but I think that, by and large, it's been accepted well.

The one issue that we had and that we still are unsure of is that with so many committees sitting concurrently with the House now, there's already a delay, you may

have noticed, in us producing committee transcripts, and we're concerned that that delay may get considerably longer if that continues.

Broadcast and recording has seen a greater reliance on freelancers. One reason for that, aside from the longer daytime hour, is that we used to be able to use Ryerson students as backup. They're in class during the day, so we can't take advantage of that anymore.

There will obviously be no live committee broadcast, because committees are only broadcast live if the House is not in session, and now they most often sit concurrently with the House.

Monday morning has always been a good time for broadcast and recording to deal with any kind of technical bugs in the system, and losing that is potentially a problem. We didn't experience any difficulties in the spring sitting, but that's because there were no technical glitches. I should tell you that, with both the sound system and now with the laptops, if there are mechanical or technical issues that occur in the House, because the House is now sitting from 9 o'clock to 5:45, it leaves very little time for us to iron those out.

1520

Interparliamentary and public relations: The pages programming has had to be adjusted, and it has impacted on the amount of time we can devote to their schooling.

We use university students for ushers, as you know, in the House. Obviously we use them in the evening most often, so it impacts on that program. Next time around, if these hours continue, we'll probably hire a few less of them. I should mention, while I'm on the subject of IPRB, that we have had some concerns raised by some of the schools that access to the chamber floor is no longer an option for school tours coming in.

Committees and journals essentially have managed with the new schedule with not much impact. Research service in the legislative library anticipated a problem in trying to assist with whatever members' requirements were getting ready for question period. To date, that has not been an issue. The press clippings service has tried to get the press clippings out a little earlier for members, and you may have noticed that they were on your doorstep a little earlier. They did that by scrimping and saving every second and every minute. The other thing you may have noticed is that the clippings may not look quite as good as they once did, because they used to spend a bit of time making sure that the articles were straight on the page; they're now not—not a big issue. We have also adapted by allocating extra staff to the clippings from the circulation department.

There has been no impact on security. There is no impact on precinct properties except if there is a seating plan change. Obviously, we pride ourselves on being able to get that on the members' desks before the House is in session. That may not be possible.

The other thing is that with all the construction going on around the building we did experience a lot more stop-work requests than we did before because the noise was interrupting committees and the House. Before, at

least, we used to have the morning when they could do that.

Foodservices' business has just shifted from very busy lunch hours. They're trying to adapt to that. They wanted me to convey apologies if any of you were down in the dining room for that one-hour lunchtime on Tuesdays and Wednesdays. They're just having a little trouble getting used to that volume of people for that short a time.

Overall, there are the usual difficulties that I'm sure you're all experiencing with scheduling meetings, trying to juggle that between the hours the House sits. We will have some increased costs for overtime and freelancers; I don't think they will be significant, though. There is some adjustment to work hours that staff are making.

I think that's just about it for administrative impact. Did I miss anything?

The Chair (Mr. Bas Balkissoon): Any comments from the other deputants?

Mr. Arleigh Holder: The only thing I would like to add is that the Monday morning starts actually could be a problem. It's not a problem now, but this is an old building, there's lots of construction going on and a lot of contractors working on the weekends. Sometimes when we come in on the Monday morning there might be a cable accidentally cut. We used to have that time to fix or troubleshoot anything, but now, even when we start at 7:30 in the morning, which is the time we start now, on Monday mornings it could be a problem. If I had a choice, I would like to see that Monday morning start maybe at 10 or something.

The Chair (Mr. Bas Balkissoon): Questions? Mrs. Mitchell.

Mrs. Carol Mitchell: Thank you for all of the hard work that you do on behalf of the people of Ontario. It sincerely is appreciated. Thank you for coming forward today as well.

This is one of the things I had hoped we could talk about, and I welcome your comments on this, Deb. My federal counterpart has a bit different schedule to work with than I do. I can tell you, representing a very large, rural riding, when he does four weeks on, one week off, it really does give the opportunity to get out into your constituency on a much more regular basis, especially with large ridings. I really would appreciate, Deb, if you would give me some comments. What would that do? How would that be helpful, if that is something that would come forward: four weeks on, one week off, say, or three weeks on, one week off, or whatever, but the legislative schedule reflective of that?

The Clerk of the Assembly (Ms. Deborah Deller): In terms of the response of the assembly and our ability to provide service to the House, I'm not sure, again, that it would make a lot of difference. It may help you as members in terms of dealing with the issues that are coming up in the ridings.

The other thing that I will say is this: I've heard a lot of—you know, members come and sit in that fourth chair at the table, and we chat a lot. There are a lot of mem-

bers, especially when you get to the end of June, for example, who have an awful lot of things going on in their ridings in terms of graduations and that kind of stuff that happens at that time of year. A four-weeks-on, one-week-off type of arrangement probably could assist with that because you could adjust the time of the sitting calendar, perhaps start a little earlier than we currently do in September, perhaps finish a little earlier in the spring. You may want to take advantage of sitting—you would have to if you had four weeks on, one week off—in February.

One thing I would say is that likely with the holidays and so on—and it's the same thing in the federal House—it's not a true four-weeks-on, one-week-off arrangement. It's as close as you can get, taking into consideration things like Easter and Thanksgiving. But, yes, I think it's something worth looking at. We've in fact already spent some time working out some possibilities.

Mrs. Carol Mitchell: It would be beneficial to the staff, though, would it not, Deb?

The Clerk of the Assembly (Ms. Deborah Deller): I can't say that it would make a difference to staff one way or another.

Mrs. Carol Mitchell: Okay, thanks.

The Chair (Mr. Bas Balkissoon): Ms. MacLeod.

Ms. Laurel C. Broten: We have one more.

The Chair (Mr. Bas Balkissoon): Okay. Ms. Broten.

Ms. Laurel C. Broten: If I can just pick up on what Mrs. Mitchell was asking, I would put it to you that if you knew that there was a week a month where you could heavily schedule construction, could you not, because none of us would be here? That would be beneficial.

The Clerk of the Assembly (Ms. Deborah Deller): It could be. With respect to construction, I'm not sure it would make a huge difference, because construction has to be scheduled over a period of time. To say you can start, have a week, and then you have to stop for four isn't something that's practical.

Ms. Laurel C. Broten: What about helping Hansard catch up with the delay on committee transcripts?

The Clerk of the Assembly (Ms. Deborah Deller): Yes, for sure, that's a possibility, depending on whether or not you're going to have committee meetings scheduled for that week off.

Ms. Laurel C. Broten: My goodness, we would hope not. We want to be in our ridings.

My question that I wanted to ask was with respect to access to the chamber floor. What would need to be changed to allow students to have access to the chamber floor during the Tuesday and Wednesday timeslot when we're not there for the three hours in any event? Why could we not allow school tours on the floor at that period of time?

The Clerk of the Assembly (Ms. Deborah Deller): Effectively, the House is in session, and when the House is in session, there can be no strangers on the floor of the House.

Ms. Laurel C. Broten: So what would we have to do to accommodate school tours, to allow them to access the floor during that period of time?

The Clerk of the Assembly (Ms. Deborah Deller): I think you'd want to think about it first, but essentially, if there was a motion in the House to that effect, we would abide by the terms of the motion.

Ms. Laurel C. Broten: Okay.

The Chair (Mr. Bas Balkissoon): Ms. MacLeod.

Ms. Lisa MacLeod: Welcome, Madam Clerk. It is a real pleasure to have you here today along with your staff, and I want to thank you for all that you've done. I want to thank you for the recognition of the fact that myself and my colleagues opposite and in all parties do work all weekend, and that the schedule must work for us and our families and the people we represent.

You made some interesting points, and one I must agree with is the introduction of guests. I must say, as probably the newest member here, it was shocking to me when I first sat here and there were introductions from the floor. I think that would be something that I would encourage the committee members to do away with and have a real recommendation on.

I want to talk a bit about us not debating all of the hours proposed since we have brought in these new standing order changes. I believe you spoke a little bit about it. You also made an interesting recommendation, I believe, in terms of morning sittings being dealt with the way we previously dealt with evening sittings.

I would just like you to talk a little bit more about that, because I do think that's quite interesting. There have been many a day where we adjourned at 2:30 or 3 o'clock and we have lost three and a half hours, and this place is like a ghost town. I'm not sure that's actually doing much for democracy. Would you like to expand on that?

1530

The Clerk of the Assembly (Ms. Deborah Deller): Moderately. I have a feeling that part of what occurred with respect to us adjourning early is that under the new schedule, you've got more House time than you did previously, because if you didn't need to sit at night, you didn't. Under the new schedule, there are fixed hours. The House had to come into session at 9 o'clock every day. In other words, what you were previously doing by virtue of not sitting at night, you are now making up for by adjourning early, either in the morning, in the afternoon or both. I think that's really what happened with that. It may have also been that there was a remarkable cooperation between parties in this last spring sitting, so some of the debates didn't last as long as they might have under different circumstances. I think there are all kinds of reasons why the House didn't use all of the time allotted to it. I suggest that one thing you may consider is having morning sittings the same as night sittings were previously, by way of a motion. That does allow you, then, the flexibility of scheduling them when necessary and not, if you don't need them.

A lot has been made of the Monday morning House sitting time and the difficulty, especially for out-of-town members, with being here for that. We have some issues with Monday morning in terms of the technical side. I think it would help with that, because you would only need, then, scheduled Monday morning sittings, if required.

Ms. Lisa MacLeod: I want to just applaud you on the recognition that Monday morning is difficult not only for your staff but for members from out of town as well in terms of bus schedules, train schedules; from my riding, it doesn't get me in until 10:16, and I frequently do drive with my family. I wanted to thank you for that. I also wanted to thank you for the recognition that private members' business needs to be addressed more in terms of a process and also its timing.

My colleague the House leader from the official opposition also has a question.

Mrs. Elizabeth Witmer: I know that the changes have certainly created changes for you, and I appreciate the professionalism and the manner in which you've adapted to the new changes. You mentioned something about the need to reunite routine proceedings. I think it's something that we've spoken to, and I've heard other people talk about how currently it doesn't seem very coherent. There seems to be a sense of disorganization at times, and it's somewhat chaotic as well. If we were going to reunite the routine proceedings, how would you suggest that that happen? Would that necessitate, for example, a 1 o'clock question period start? How would you achieve that?

The Clerk of the Assembly (Ms. Deborah Deller): I don't think that it would require that they occur either in the morning or the afternoon, specifically; I think they could occur in either the morning or the afternoon. For example, you could have the routine proceedings take place in the morning starting at 10, for example, with question period leading.

Mrs. Elizabeth Witmer: At 10 o'clock.

The Clerk of the Assembly (Ms. Deborah Deller): That's right, or 10:30. In the spring sitting, routine proceedings took less than half an hour on most days. You could conceivably do it from 10 o'clock or 10:30. If you want the definite start time for question period, then it would have to back up to 10 o'clock or 10:30.

Mrs. Elizabeth Witmer: So it could happen in that way—

The Chair (Mr. Bas Balkissoon): Last question.

Mrs. Elizabeth Witmer: —and I don't disagree with you. That would certainly work, if we could do it in the morning. You could do it any time of day as long as you just united those routine proceedings.

Thank you very much, and we do appreciate again the professionalism that you and your staff have shown in making the changes that were asked for.

Mr. Peter Kormos: Thank you, Ms. Deller, and to your colleagues. You've ignited—I think it was Bob Geldof and the Boomtown Rats: I Don't Like Mondays—that old song in my head. It's going to be running

on my hard drive at 11:30 this evening. I think I got the song right; didn't I, Ms. Broten? I Don't Like Mondays, Bob Geldof and the Boomtown Rats? You remember.

You responded to Ms. Broten's question about how you get not just school kids but any visitors access to the floor. I know it's a delightful thing for most people. During the summer break, for instance, when I'm here, it's an opportunity you have to put them right in the circle there and it's an exciting thing. I wasn't really reading your mind, but I was picking up some messaging about the caution that we have to use when we start dismantling not just tradition but precedent. It serves a function, in many cases, so we have to be very careful what we wish for. Maybe without addressing that specific issue, or maybe by using that specific issue—did I read the message right?

The Clerk of the Assembly (Ms. Deborah Deller): The House is in session—members have documents on their desks; the mace is not secured—and it has the ability to come back whenever. The stanchions aren't up, there is no definition of where—I'll use the colloquial term—strangers can go in the chamber. I think it's not unlike when you're having a meeting, for example, in a room like this, and everybody gets up to go for lunch, but you don't want to have to take everything with you, so you lock the door behind you. It's not open for everyone to have access to. I think you really want to be careful to preserve the chamber as a meeting room for the purpose of the House to convene when it is in session.

Unlike many other jurisdictions, we have been lucky to allow members of the public on to the floor when the House is not in session, but I would consider carefully doing that in other circumstances. What we have done is when the House is in recess, we have been doing the tours from the public gallery. So it's not as if during those times we haven't taken them into the chamber at all, we've just been doing it from the gallery.

Interjection: What about Fridays?

The Clerk of the Assembly (Ms. Deborah Deller): Fridays, still on to the floor.

Mr. Peter Kormos: Similarly, Professor Wiseman expressed his dismay at being told to put away a notepad and pen when he was in the visitors' gallery. As I say, both Ms. Broten and I have shared the same sort of questioning about why that would be considered inappropriate. At the same time, though—and there is historical rationale for it, I suppose—just as I wish there were rules against having BlackBerries even in the House, because you've got people focussing on their BlackBerry and reading Lord knows what, the utilization of note-taking in the visitors' gallery could be problematic in and of itself, if you've got people up there reading books, people up there with huge 8.5 by 11 pads, with little reporters' notepads. It can be problematic. So another thing we should be careful what we wish for?

The Clerk of the Assembly (Ms. Deborah Deller): I do. I think you need to probably try not to create any kind of disruption or distraction beyond what you already have when the House is sitting.

Mr. Peter Kormos: The BlackBerry in the House, not only do they get picked up on the microphones, but it just boggles the mind that people pay little enough attention as it is, and there's yet another distraction. If there were assurances that this was bona fide House-relevant stuff or relevant to what's happening in the House at that very moment, you might feel a little more comfortable about it. You talked about detracting from the public's confidence in what we do in that chamber, when the public sees us—and I don't use a BlackBerry, but when people are flicking around with their BlackBerries, people really wonder what the heck we're doing in there.

The Clerk of the Assembly (Ms. Deborah Deller): I'm old school enough to think that the chamber is a debating forum and inasmuch as is possible, members should preserve it as that. So yes, I agree with you.

1540

Mr. Peter Kormos: She's nowhere near as old as I am.

The Chair (Mr. Bas Balkissoon): Thank you. Members of the committee, we had set aside 30 minutes for the Clerk of the Assembly, plus time for the other members of staff. I'm open to it if you want to continue questioning. Give me some directions, and I'll just split the time, or if you're all happy with what you've heard so far, we can adjourn.

Mrs. Elizabeth Witmer: I just have a request. We talked about the hours that we were scheduled to meet and didn't meet. Could we have that information as to how many hours we didn't meet when we were scheduled to meet?

Mr. Khalil Ramal: I'm sorry; I didn't get the question.

Mrs. Elizabeth Witmer: During the spring session there were often times in the morning and later in the afternoon when the House was scheduled to meet to debate but the debate ended early. I'm just wondering, in the course of each day how much time was accumulated over the entire time period that we were scheduled to debate—we know the hours that we were trying to achieve—and the number of hours that we didn't debate because we collapsed early.

Mrs. Maria Van Bommel: I have to ask about the importance of that because essentially the collapsing of debate is an all-party decision. Any party that stood and continued the debate could force it right through until 6 o'clock. What is the relevance of having that information? I'm just wondering why we would—because it is a mutual decision among all parties. At some point everyone decided to let the debate collapse.

Ms. Lisa MacLeod: I think it's relevant. It's been requested. She can still ask for it.

Mrs. Maria Van Bommel: To what purpose?

Ms. Lisa MacLeod: This is a classic example, Mr. Chair, of things I've confronted in previous committees with the government, where they believe that we in the opposition should not have the right to ask questions. The

rules are here in this place to respect our request for more information.

The Chair (Mr. Bas Balkissoon): Ms. MacLeod, let me preside over this.

Ms. Van Bommel has asked the purpose of it. Mrs. Witmer has requested it. I don't see a problem in it being requested. I'm just going to check with our research people when it can be made available. Obviously we have had some of the material provided to us, but this is further clarification of what you were looking for.

Mrs. Elizabeth Witmer: Yes. I think we were all agreed—I think I can speak for Peter, but if not, he'll speak for himself—that we all recognize the desire to sit longer hours in order to have more debate. At the end of the day, I would like to see the number of hours that we actually did sit but also find out how many hours we were scheduled to sit and we actually didn't debate. I just think it's an interesting point of information at a time when we're looking to possibly make changes to the standing orders. It's just some additional information that I think we can use in our decision-making.

Mr. Peter Kormos: Dare I even attempt to be peace-maker here? I think not. We all know that in a hostile House, a hostile chamber, the minimum becomes the maximum, the maximum becomes the minimum. Evening sittings have been used to try to punish the opposition into collapsing debate—that's the reality. Yet the government members find them no less useful than opposition members in terms of sitting in the evening, although some of us—I have no family, I have no friends—

Interjections.

Mr. Peter Kormos: Well, yes, it's true: I have no obligations other than what I do here and out of my constituency office.

This illustrates the difference between a hostile environment and a collaborative one. I really think that one of the goals, if it can be achieved in this Parliament, should be to develop a more collaborative—not to in any way diminish the opposition. I'll tell you folks what I've had occasion to tell you before, and I'm sorry if you resent me repeating it, but I was here long enough ago when there were no time limits on speeches; when there was no standing order that permitted time allocation, there was only the common-law time allocation; when some debates on bills took two hours and some took 20 days. My recollection of that time—and look, I'd be the first to concede that the first major rule change that I witnessed here was in a very hostile environment. It was done by your friend Mr. Rae, and then—

Interjection.

Mr. Peter Kormos: Well, the second one was done—you know, the so-called Baird standing order changes. They were unhealthy things. The climate in this assembly has transformed enormously in the brief 20 years that I've been here. I truly believe—and one of the reasons why I don't condemn the additional hours is because it does give us more flexibility to arrange debate time, and it does raise the prospect of saying, "Okay, on Wednesday or Thursday, more likely, or Monday, we'll need two

more hours of debate on Bill 12, but then we can move on to Bill 47.”

The New Democrats have tried to demonstrate our eagerness to have this place work a little more effectively by virtue of signalling—not just signalling, but by telling—the government House leader where we stand with various bills. There are some bills where only the critic—and sometimes the critic doesn’t even want to stand up and speak for a full hour. There are other bills where three members of the NDP will want to speak, and there are some bills where perhaps all nine or 10 members of the NDP are going to want to speak.

Trust me, my friends, I was here in the Peterson government; the House was no less testy. There was some really controversial stuff that came through that government. It was after the accord and it was a huge majority government, so the Peterson government was feeling its oats. So there was some very contentious stuff and some very heated debates, but through all that there was still an ability to organize the House calendar and, yes, have occasion to have days when you could move on to another bill.

The problem in the last five weeks since the standing order changes were implemented is that the government didn’t have, quite frankly, that much left on its plate, so it was a little more difficult to plug in the holes and to organize the sort of thing that I am talking about.

All I can tell you is that I am eager, as the NDP House leader, to develop an environment, a climate, wherein the House will be no less controversial or adversarial but where we can agree that X number of hours will be good for some bills, where 10 times that will be needed for other bills. That’s how this place could become far more effective and, quite frankly, far more family-friendly, because people could plan their lives around their specific obligations, around their critic areas, around when they know they have to be in the House, in the chamber, to take part in a debate.

So I think that information that’s being requested could be valuable because it could show us what time there was available. It was close to the end of that session; the government didn’t have that much left on its plate. We know that. Let’s not kid ourselves, let’s not try to BS our way out of that. But at the beginning of a session with a stronger agenda, the ability to have flexibility and to plan those things can be critical. As I say, that, in and of itself, is far more family-friendly than any standing order changes.

Mrs. Carol Mitchell: I’m very pleased to hear that the member supports such a collaborative working environment, so I know that when we talk about co-sponsorship, that will be something that will be given due consideration for the betterment of the civility in the House. Thank you, Peter.

I wanted to know exactly when the hearing draft transcripts would be available from Hansard.

The Chair (Mr. Bas Balkissoon): From today’s meeting?

Mrs. Carol Mitchell: From today’s, yes.

Interjections.

Mrs. Carol Mitchell: I’m just asking when, yes.

The Clerk of the Committee (Ms. Tonia Grannum): Does Peggy know? Two?

The Chair (Mr. Bas Balkissoon): Two days.

Mrs. Carol Mitchell: Two days?

Ms. Peggy Brooks: The draft will be ready probably by the end of today.

Mrs. Carol Mitchell: Okay. Thank you.

The Chair (Mr. Bas Balkissoon): Okay. I have one, two, three more people requesting to make comments, but I just want to go back to Mrs. Witmer.

The report of the subcommittee, if you could clarify it for me so I could get staff to—number 10 basically had the number of hours, and I know what you’re looking for. You’re looking for the number of hours that were available versus what were used—

Mrs. Elizabeth Witmer: That’s right.

The Chair (Mr. Bas Balkissoon): —but on a daily basis, or as a lump sum for the whole five-week session?

Mrs. Elizabeth Witmer: No, I’d like it on a daily basis.

Mr. Peter Sibenik: Is it just since the provisional standing orders?

Mrs. Elizabeth Witmer: Yes, since then, because there’s been some talk about maybe not sitting or doing things on Monday morning, and it’s just interesting information as you’re trying to make your decisions.

The Chair (Mr. Bas Balkissoon): Members of committee, Mrs. Witmer did request this during our subcommittee meeting. I think there’s maybe a misunderstanding or a miscommunication in point number 10 of the subcommittee report. I would rule that her request be brought back. Staff tells me they can make it for our August meeting; it cannot be done for tomorrow. If that satisfies your requirement, I’m just wondering if the other four people still want to ask their questions.

Ms. Lisa MacLeod: Just very quickly, Deb, and you can get back to us: In terms of the entire standing orders, of the flaws that we are dealing with, could you get back to us with the three biggest flaws or three specific flaws you think that we can deal with right away in terms of the legislation, three solid recommendations on how to move forward?

The Clerk of the Assembly (Ms. Deborah Deller): First of all, I’m not sure I’d characterize them as flaws necessarily, but are you talking about the provisional standing orders or standing orders as—

Ms. Lisa MacLeod: The provisional standing orders.

The Clerk of the Assembly (Ms. Deborah Deller): I can see what I can do.

Ms. Lisa MacLeod: Thank you. Prior to report writing.

Mrs. Carol Mitchell: Just for a point of clarification, Mr. Chairman: With reference to number 10, is it the member’s concern that that was the information that you were looking for from the original subcommittee? So it’s an alteration of number 10 that you wanted, the numbers

of hours of debate available? Just looking for clarification.

Mrs. Elizabeth Witmer: It's the same question, basically.

Mrs. Carol Mitchell: Yes. I'm just looking for clarification. Thank you.

The Chair (Mr. Bas Balkissoon): That will be available to us at the August meeting. With that, the meeting is adjourned.

Mrs. Elizabeth Witmer: Excuse me, Mr. Chair, tomorrow are we only hearing from the Speaker?

The Chair (Mr. Bas Balkissoon): As far as I understand, that's all. There's nobody else.

Interjection.

The Chair (Mr. Bas Balkissoon): His presentation was 20 minutes.

Thank you all very much. Meeting adjourned.

The committee adjourned at 1550.

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Review of provisional
standing orders

Comité permanent de l'Assemblée législative

Révision du
Règlement provisoire

Chair: Bas Balkissoon
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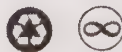
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 30 July 2008

Mercredi 30 juillet 2008

*The committee met at 0900 in committee room 1.*REVIEW OF PROVISIONAL
STANDING ORDERS

The Chair (Mr. Bas Balkissoon): I'll call the meeting of the Standing Committee on the Legislative Assembly to order on the review of the provisional standing orders.

THE SPEAKER

The Chair (Mr. Bas Balkissoon): Our first deputant is the Honourable Steve Peters, the Speaker of the Legislature. Good morning, Steve, and welcome.

The Speaker (Hon. Steve Peters): Thanks, Mr. Chair. Good morning, everyone. I hope everyone's having a good summer. I can attest to the fact that when Speakers go on trips and people call them "junkets," they're not necessarily junkets. I took my niece and nephew on one of my trips and returned from Halifax, and my niece said to me, "Jeez, Uncle Steve, we haven't seen you. It's 5:30 on a Saturday afternoon; you've been in meetings all day." I just throw that out.

Just before I start, Mr. Chair, I think it's important that I relay a piece of information to you. As you know, the Speaker, as you and others did, reviewed the use of the Lord's Prayer. At the time, I was asked a question as to whether or not the Speaker would rule on additional prayers. I said that no, I didn't feel that was appropriate. I have referred those additional requests—and they are coming in—to your committee. I will allow you the opportunity to deal with future requests for new prayers. I just thought that it was important for you, as the Chairman of this committee, to be aware.

The Chair (Mr. Bas Balkissoon): We'll send everyone to training.

The Speaker (Hon. Steve Peters): Thanks, Mr. Chair.

I've got a number of points that I'd like to raise today. First I'm going to speak as a member, as one of the 107 members in this Legislature. My first comment would be, as far as the hours are concerned, that in the past I could leave my riding on a Monday morning and come to Queen's Park. With this change that has taken place, I have to come in Sunday nights; there's no way around that. So I end up losing a half day of potential constitu-

ency work. I have a rural riding; I have 11 municipalities in my riding, and events that I would have done on a Sunday I now cannot do because I have to be prepared to make the drive into Toronto. From that perspective, I don't like the Monday morning sittings. Also, it can make for a late evening getting home on Thursday nights as well, where historically I may have been able to race home and do events on a Thursday night. Maybe not from a family-friendly perspective, but from a constituency-friendly perspective, my constituents are missing out on some things that I would be at.

I'll start on a few things that I know are issues.

Introduction of visitors: I recognize that the question is whether the Speaker or individual members should do it. I personally believe that we need to maintain a set time for the introduction of visitors. If you go back and review Hansard, you can see that there would be interruptions all through the day of members getting up and wanting to introduce guests. I believe that it maintains consistency. It depoliticizes; I can tell you that as it stands right now, I receive a written request from members of all parties wanting me to introduce guests. Some of those requests that come in are very political, that this person is representing this group and this agency and they are here because of that. I don't politicize them. I introduce the visitors with just a short synopsis of the organization and welcome them on behalf of the member. I believe that if you start allowing individual members, it could politicize the process. I do think that it's important to keep it consistent and keep it at a set time, and that the Speaker, in my opinion, can help to move that along and not allow it to drag on.

The question of question period in the morning: I'm not in a position to comment one way or the other. I am a servant of the House and I respect that, and I will do as the House directs me when it comes to question period. I do think, though, that it's important—I know that the committee has received a letter from the Association of Management, Administrative and Professional Crown Employees of Ontario. I would certainly encourage the members to read that letter and take into account the impacts that it does have on staff.

I'm quoting, Mr. Chair, from their letter: "Many of our members in the Ontario public service research, write, edit and/or coordinate the preparation of briefing notes and other material for the use of their ministers during question period...."

"The change in question period has had an impact, however, on the work/life balance of our members, many of whom have had to alter their hours of work to accommodate the change, inasmuch as briefing material is now required by ministers' offices much earlier in the day than before....

"We are concerned, however, that while employees were able and willing to make adjustments for what was essentially a two-month trial" period ... "the changes are not sustainable on an ongoing, permanent basis, particularly over a longer session that might be characterized by more contentious issues and more legislation than in the last months of the previous session."

I end with this, and I'm quoting again: "It would be unfortunate if a plan to make the Legislature more family-friendly for MPPs ended up impairing the personal and family lives of public servants."

I would encourage the committee to take that under consideration.

Having served in two ministries, I very well remember my issues staff coming back from the morning issues meeting. They would then meet with the bureaucracy, the AMAPCEO representatives, and they would spend a good part of the morning researching and ensuring that I was prepared to come into question period for 1:30. There were days it was even a challenge to have a well-researched answer in preparation for question period. So I just urge the committee to take the concerns of AMAPCEO under advisement.

I would say two other things on question period in the morning. Whenever question period is, it should have a set start time, even if that meant, whenever question period was in the day, that there was a recess and it started at a precise time. My experience has been that there have been some days where we were, boom, ready to go for question period at 10:45. There were other sessions when, because of a speaker wanting to finish his or her comments on the debate from the morning, question period was a little later starting. I think it's important to have a set start time.

I will just make another observation on the morning question period. As Speaker, I not only watch the members, observe them, listen for comments etc., but I also watch the galleries. I'm confident in saying that the galleries do not appear to have the same numbers of public visitors in them as they did in the afternoon sessions. You can take that for what it is, however you choose to.

I understand as well that the committee is considering four weeks on, one week off the calendar. Certainly, again, if it is the desire of the committee and the House to proceed in that—personally, as a member, I think it's a good idea. I watch our federal colleagues. I think their routine may be three weeks on and one week off, but I could be corrected. I'm jealous at times of my federal member, that he has a lot of time that he can spend in the riding, for a whole week. I think it's definitely worth pursuing, and it may actually help us in some ways, help Hansard in dealing with some of the backlogs that may exist there.

Presiding officers' schedule: I think it's important for the committee to understand that I, along with four other members, serve as your Speaker. It can make for a very long day for the presiding officers as well. You may want to actually query them individually, but I think there are some challenges. The presiding officers' schedule is an example. For me, I end up every day having to be in the chair three different times. I am there for the procession at 9 a.m. in the morning and lead the assembly in prayers; then I leave the chair; then I return again at 10:45 for question period, stay in the chair until question period has ended and petitions are completed; and then would return, again, in the afternoon for routine proceedings. On Tuesdays and Wednesdays it's not as much of a challenge because you've got three hours, but on Mondays and Thursdays I can be leaving the chair at almost 12:15, at times, and then having to turn around and be back in the House at 1 o'clock. So Mondays and Thursdays can be a bit of a challenge for the Speaker. As I say, it's three different times that I end up sitting in the chair.

0910

As well, I have a regular meeting that takes place with the presiding officers. The changes of putting business and question period in the morning have certainly impacted on my meeting schedule with them; I would have to say it's impacted on my overall meeting schedule. I'm finding I'm doing more early morning meetings and later in the day meetings to work around the House schedule.

As well, as far as the routine proceedings, I would encourage that consideration be given to having question period and routine proceedings reunited. One of the reasons I would say that is that routine proceedings are in the afternoon. If the government introduces a bill in the afternoon, the opposition has no opportunity to question and get on the record on that bill until the next day. So I think, again, representing all members of the House, there should be consideration given to going back similar to the way that it was, where we had routine proceedings, where bills would be introduced, ministerial statements, and then we'd go into question period. That, I believe, would give the opposition a better chance to be on the record that day if a particularly contentious bill is introduced. Right now, they don't have that opportunity.

On the whole issue of co-sponsorship of bills, I would just encourage you, if you're going down that road, to make sure that it's well thought out. Issues that you may want to consider: Can sponsors withdraw their name at any point? As an example, if an amendment makes the bill unacceptable for one of the co-sponsors, what's the status of the bill? A resolution process where there's disagreement as to the disposition of the bill, i.e., which committee it's going to go to. It sounds American to me, but I'll leave it at that.

Another issue, I understand, is allowing tours on the floor when the House is in recess. I, along with the Clerk's office, do not believe that would be a good idea. I will say that this has been one of the things that has been lost in this process, where the public had that opportunity to tour the Legislature in the day and be right on the

floor. That has been lost. We have security procedures that are in place that have to be taken into consideration for the protection of all members and all staff. Just because the House is in recess, we can't suddenly swing the doors open and allow the public in, because then they'd have to come through and do their security sweeps again. So really, logistically, it cannot work. I would say that public access to the floor is something that has been lost.

Some of the other issues that I just wanted to raise as observations: Certainly we all recognize that there are a lot of receptions that take place here at Queen's Park, groups that are coming here to lobby members, to provide information for members. I would encourage the committee to survey those groups and organizations that have had receptions during the two-month trial period, especially those groups that have been here in previous times, and look at their turnout in the past two months compared to previous years. My gut tells me that those groups will tell you that they have lost contact with members as a result of this. Again, I think we need to think not only about ourselves but certainly about staff, some of these outside organizations and the receptions.

I know you questioned the Clerk extensively and she spoke to the issue of staff impact. I did read in excerpts from the AMAPCEO letter, but I think it's important to understand that this Legislature has yet to experience, even in the two-month trial period, a full day running. Many days, the House has risen early, so it is difficult to gauge the true impact on staff when the House would be sitting from 9 a.m. until 5:45 p.m. I don't think we've been able to properly understand some of the issues because we haven't had the full sittings.

Another group that I believe we need to take into consideration are our pages. The page program has been highly successful. I actually had a page, Cali Van Bommel, live with me for her three-week period here. That group of pages experienced the old schedule and the new schedule. I asked Cali afterward, "What did you like better?" She liked the old schedule.

I'll raise some issues, because I think we need to take into consideration the impact that it has on the page program.

Education issues: Students used to receive seven hours of legislative process class per week. The new schedule now only accommodates approximately four and a half hours a week. Most of the educational hours are now spent in two separate groups, making it harder to plan team-building group activities or experience the overall being together as a team.

Lunches: Due to the House schedule, pages never get the full one-hour lunch break on Mondays and Thursdays—just like the Speaker—because the House usually sits past noon. Lunch breaks are not long enough to properly accommodate MPP lunches with pages—and we all have pages with whom we have lunch. The schedules don't properly accommodate that with the pages and ensure that they're back in time for their House duties.

Meetings: Meetings seem to be no longer possible with the Premier and much harder to book with other

party leaders. The hours that the House does not sit on Tuesdays and Wednesdays, when the pages would be available for meetings, are now dedicated to caucus and cabinet meetings.

General issues regarding the hours for the pages: Pages are more tired due to the longer hours. Pages have to arrive in the quarters no later than 8 a.m. each morning. It was one thing for Cali Van Bommel to do the short little walk down to the page room for 8 o'clock, but we do have pages who are coming in—most pages from outside ridings do find accommodation here in Toronto, but there are pages who come in every day from Richmond Hill, Thornhill, Oakville, Oshawa and Whitby, so it makes for a very long day for those individuals. They depart for home between 5 p.m. and 6 p.m.

I think an issue that needs to be recognized is the uncertainty of the hours of the past session, i.e., that the House frequently rose earlier than scheduled. Most pages' rides were not scheduled to arrive until either 5 p.m. or 6 p.m. So the pages themselves were not able to take advantage of the early departure times that members enjoyed.

I know that there are other family-friendly issues as well. Those issues need to be addressed by the House leaders. I am prepared as Speaker to work with the House leaders on dealing with some of the other family-friendly issues that have arisen around this place, but it's not in my authority—because this was an all-party committee that was struck by the Legislature, it is not for me to suddenly assume the chairmanship of that. But I would say to the committee that if the House leaders can get an agreement, I am prepared to work with all members on dealing with family-friendly issues relating to this building and taking issues, if needed, to the Board of Internal Economy.

I know the member for Nepean—Carleton—there's a letter in my office that I've received from you, and I'll be responding back to you, saying that it is in the hands of the House leaders. As much as I am certainly prepared to work with you and with all members, I don't have the authority to do it, and we may want to speak to that.

Just one other comment that—

Mr. Peter Kormos: I'm sorry, Mrs. Mitchell. I didn't hear you.

0920

Mrs. Carol Mitchell: You didn't?

Mr. Peter Kormos: No. You've been grimacing and chortling through the bulk of the Speaker's presentation.

Mrs. Carol Mitchell: I was not, Peter. Don't be ridiculous.

Mr. Peter Kormos: Are you okay, ma'am?

Mrs. Carol Mitchell: Peter, your comments yesterday and your comments today reflect your attitude towards members. It's ridiculous.

Mr. Peter Kormos: No, no, as long as you're okay. Sorry, Speaker.

The Speaker (Hon. Steve Peters): It's all right, and I don't mind. As I said at the outset, Mr. Chair, I am but a servant of the House and I will do as the House directs

me to do. But I am one of the members of this Legislature as well, one of the 107 of us. I'm quite comfortable speaking my mind on issues that impact me in my performance and impact me personally as well.

I'll make my final comment, Mr. Chairman, on private members' business. I think it's good too that you're debating that the members get a chance to debate three pieces of private members' business. I would, though, encourage this committee or maybe another committee to take a hard look at private members' business and the relevance of private members' business, because it would be interesting to go back and do a study of the number of private members' bills that have been introduced and how many of them have actually passed over the past 10 years.

I would encourage you, as I spent some time with Speakers from other provinces and territories, to look at some other jurisdictions. Alberta has a wonderful system: Within one month of a private member's bill being introduced, it has been through first, second and third reading, and it's either yea or nay. It passes or it doesn't pass.

Instead of having bills languish and sit in legislative purgatory, I would encourage you to take a look at some other jurisdictions and what they're doing with regard to private members' business. I think it is important that members have that ability to deal with private members' issues. I can say, having been a member here since 1999—so that's through two political stripes—that I've seen lots of good private members' bills that came forward that I believe were non-partisan and were probably in the best interests of the province or particularly in a member's constituency, and they don't go anywhere.

The Chair (Mr. Bas Balkissoon): Can I get you to summarize?

The Speaker (Hon. Steve Peters): Summarized.

The Chair (Mr. Bas Balkissoon): Okay. Thank you very much. The Speaker was allowed 20 minutes.

The Speaker (Hon. Steve Peters): Oh, sorry. I didn't know that.

The Chair (Mr. Bas Balkissoon): Time has run out, but I know many of you have questions so I would say, with the indulgence of the committee, I'll go one or two rounds, whatever you would like. Two? Okay. Mrs. Witmer.

Mrs. Elizabeth Witmer: Okay. Thank you very much, Mr. Peters. We really do appreciate the objective look that you've taken at what's happening. You obviously have a broader perspective than most of us, and it was interesting to hear the impact on the pages.

We've already raised the issue of the Monday morning session creating hardship for people who do come from out of town and shortening the weekend and family time. We would agree with you that there needs to be a definitive start time for question period, and certainly we agree that the routine proceedings should be united as opposed to the way they are right now. On the receptions, I heard from a couple of people who did think the

attendance was somewhat down because people had left the building long before that, so that may be an issue too.

I want to go back to the hours. We have the AMAPCEO letter, but I think people have not taken a look at some of the labour problems that we as MPPs have. Many people here have only one staff member. If you're not a parliamentary assistant or a cabinet minister, unfortunately our budget doesn't allow for a lot of staff. I can tell you personally that now with this revised day our staff are working from 7:30 to get us ready for question period and must be here until, obviously, 6 o'clock. That is a 10-and-a-half-hour day. If you multiply that by five, these people are now being expected to work 52 and a half hours, as opposed to 37 and a half. If we're going to continue with this schedule, I think we're going to have to take a look at how we can compensate people for the overtime or how we can increase the staffing budget, because it's not fair for these people. I guess too they travel into the downtown. If they're expected to be here at 7:30 and must be here until 6 o'clock, it really reduces the time that they have at home with their families. So I think one thing that the changes have done is to actually make family life and personal time less available to all staff. Do you have any comments on that?

The Speaker (Hon. Steve Peters): My only comment would be that you and I, having both served as labour minister, recognize that the Employment Standards Act does not apply to our staff. My only comment would be that if there was a desire to look at trying to hire any additional staff, as the Chairman of the Board of Internal Economy, if there was a proposal brought forward, I'd certainly make sure that it was fully deliberated at the Board of Internal Economy.

Mrs. Elizabeth Witmer: Just going back, you mentioned that we're looking at co-sponsorship of bills. I didn't know we were looking at co-sponsorship of bills but yesterday it was raised by the government, so I guess that's why they've got us here, partly. I didn't know we were looking at three weeks on and one week off or four weeks on and one week off either. I guess at the end of the day, I'm not sure what our deliberations are going to achieve, but certainly I hope that whatever happens there can be some unanimous agreement as a result of the discussion today, tomorrow and on the 11th that all of the parties can support.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: Thank you, Speaker. I'm disinclined to put questions to you because you've come here, you've said what you've had to say and I don't want to draw you into what is in many respects a partisan debate. Standing order changes are made by governments to suit their goals and their agenda. I saw that with the Rae standing order changes back in the early 1990s; I saw it with the Tory standing order changes. The government didn't do that to accommodate the opposition; the government did that to advance its own interests and in many respects to put restraint on the opposition, and I understand that. I regretted both of those instances, two of the instances I witnessed here. So as I say, it is a

partisan motivation. When governments do these things, it's partisan. I don't want to see you in any way, shape or form have your non-partisan capacity compromised.

The Speaker (Hon. Steve Peters): I appreciate that. Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Ramal.

Mr. Khalil Ramal: Thank you, Mr. Speaker, for your presentation. I know you covered a lot of points. First, I want to talk about the changes. As a member, when they proposed the changes, I was happy with them. As members and as people, when we get used to certain patterns and ways—I guess psychologically we try to oppose it for many different reasons, because we've established some kind of network and time frames and we work around them for many years. So when we experience change—particularly myself, I liked it. I found myself with a lot of time and I was able to do a lot of duties as a PA for my ministry. Also, I got a lot of chance for lunchtime and I got a lot of time to connect with my constituents from my office. I understand about the pages, and you mentioned lunchtime. I think we have more lunchtime now than before. We have a lot of break time from 12 to sometimes 3 o'clock. It's sometimes three hours to do whatever we can.

Also, you mentioned introducing people. We spoke in detail about it yesterday. We used to, as you know, stand up and introduce our guests, sometimes friends, sometimes family, sometimes people we know, to get the credit and our name appearing in Hansard. I understand your concern. It used to be all over the map and sometimes it interrupted the whole procedure of the House. But what do you think if we—this is a question, of course; hopefully you can answer after I finish my points—have a fixed time, like five minutes in the morning and five minutes in the afternoon sessions, and we allow the members to introduce their guests? Then they have a personal touch, instead of going by you, because most of the time, Mr. Speaker, you introduce people who are not in the gallery or who have already left. The whole purpose of introductions is already gone.

We talked about receptions. I know many people who come to Queen's Park to lobby members and to meet with various parties to talk about their issues, and they lost touch during the past session because of the time change. Hopefully, when we go next time and they'll know exactly the standing orders, they can fix their times—and I think we have a lot of time.

0930

You talked about the pages, and the Clerk yesterday spoke about the ushers. We have two programs: We have the pages in the morning and the ushers at night. Since we're not sitting at night, I wonder if an internal procedure between yourself and the Clerk can be adjusted for the pages in the morning and the ushers. So for this one here you can utilize the capacity of the ushers, because she mentioned yesterday about the ushers maybe being downsized because we're not sitting at night.

You talked about sitting longer hours. I found myself, as a member, that you still come in the morning re-

gardless. Whether we're sitting or not sitting, we have to come here to this place at 8 o'clock in the morning and proceed to do different work. Most of the time, we sit until 9 o'clock, and then we have to come back again at 8 o'clock on the second day. So most of the time we come tired, exhausted, and we're not able to perform as we're supposed to. But these changes allow us to come in the morning and finish by 6 o'clock most of the time, and then we are able to go back home, relax, sit and re-energize ourselves and come back fresh the second day to perform our duties.

I'm going to leave some things to my colleague.

The Speaker (Hon. Steve Peters): Thank you, Mr. Ramal and Mr. Chair. Just remember, the ushers are university students, so they are in school during the day. Most of them are students at U of T, but not entirely. Many of them are in classes during the day.

Introduction of guests: As I've said with everything that I've done today, if there are changes made to the standing orders or direction given to the Speaker, the Speaker will accommodate. I serve you. To Mr. Ramal's suggestion of maybe looking at a couple of times a day to introduce guests, if that is the desire of the committee, I will do that. But I would throw back to the committee that I don't want to be, as Speaker or as one of my colleagues, policing. If an introduction starts to get politicized and causes an uproar in the House, the onus is going to come back on the Speaker to deal with that. So if that's the desire, to have the members individually introduce the guests, great. But if you're going to be asking the Speaker to decide whether that was too political of an introduction or not, I have a bit of a problem with that. But if that's the desire, I will do as the committee directs.

The Chair (Mr. Bas Balkissoon): Thank you. Ms. MacLeod.

Ms. Lisa MacLeod: Welcome, Speaker. It's nice to see you.

Just a point of clarification: You mentioned a letter that I had sent to the honourable government House leader. It was intended for him; it was a courtesy copy for yourself.

With respect to the four weeks on, one week off and co-sponsorship, it's the first time in the last two days that the official opposition, and I'm sure the third party, has heard of those proposals, so it has us questioning why we're here right now. If we're intending to be here in good faith and learning things from people who are being questioned or people who are providing a deputation, it's a bit ironic for us.

I would like to comment just a bit on the four weeks on, one week off for my colleagues, who have been saying how great the federal members feel about it. Because of the work that I've been doing to try and make this Legislature more family-friendly and by advocating for that, I actually spoke to the Minister of Intergovernmental Affairs for Canada, Rona Ambrose, about some of the things that we do here. It's not clear to me that the government of Canada or the Parliament of Canada

thinks they've got what they're doing right either. So I would encourage members here to do what Deborah Deller told us yesterday, to make sure that what we choose here works best for us.

That brings me to my second point about AMAPCEO, the pages and the ushers. I appreciate your bringing forward their points of view, and that's very important. But at the same time, this Legislature needs to work for Ms. Broten, Ms. MacLeod, Mr. Kormos, Mr. Ramal and Mr. Rinaldi. It has to work so that we can best represent our constituents and make sure that we're healthy, happy and wise and not rundown frequently. I think when you're looking at the timetable that we've set up—look, I'll be the first to admit I don't have a problem with the hours. Monday morning is a challenge; I think we need to look at that. It's very difficult for folks like me and from other parts of the province to get in here for 9 o'clock. That said, we should be working right until 6 o'clock, and that hasn't—and you indicated this, and yesterday we learned from the Clerk of the House that we didn't use all of the time that we were given in terms of debate. That's a problem.

You mentioned that we should reunite routine proceedings and question period. I think that's a brilliant idea. The day, as one of the table officers has said, was clunky. We have to really look at that to streamline this whole process.

In terms of introductions, I'd like to say this: If the one thing the federal Parliament does do well is save that use for very important visitors to the gallery—not that all visitors aren't important, but it is for visiting dignitaries. I think that by the way that everybody can be recognized and then some people aren't, and some people in a group might be recognized and others aren't, it creates more problems than I think it's worth for the chamber. It also distracts from why we're actually in the chamber, and that is to debate the ideas of the day and to challenge the government—and in the opposition, it's for us to put forward ideas. We can't lose sight of what we're supposed to do in that chamber.

This process has become more partisan than I think was intended. To find out that this was going to be family-friendly because it was a term that members of the opposition were using, and we find out on a Sunday that we're having these changes rather than learning about them through our House leaders, just because it was a buzzword of the day, I guess—I don't think that's what people have intended in terms of making this place more family-friendly.

Those were my comments, and I wanted to get them on the record.

I do have one request, and that is to receive your timetable for presiding officers for this committee for report writing, and I'm hoping that you will be able to provide that to us.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: No, thank you, Chair.

The Chair (Mr. Bas Balkissoon): Mrs. Van Bommel.

Mrs. Maria Van Bommel: Thank you very much, Speaker, for coming in.

A couple of questions—and right back to Ms. MacLeod's question about presiding officers. You said there's a change in the amount of time that they're spending, and I'm wondering how that has changed from when we used to have evening sittings. You need presiding officers at that time too. I'm not quite sure what has changed in that respect.

When it comes to receptions, definitely. I make an effort to attend because I know these people try hard to put these things together and it is more difficult if they set them up and people aren't attending. But then, also, that could be just as easily changed. The cattlemen's reception at lunchtime with their barbecue was just as well attended this year when the change in the schedule happened as any other year. I guess because I'm kind of a morning person myself anyway, I really like the breakfast-type receptions. Maybe just a different approach that these groups take in order to meet with us would work well. We did one breakfast reception that was very well attended. I've seen them before and I think they work quite well. Maybe we all like to have a glass of wine or a beer at the end of the day, but I don't think that's really the point of a reception; it's to make the contact with the group that's trying to reach us and talk to us about their issues.

You mentioned private members' business, and you talked about Alberta and said that it might be interesting to know the ratio of numbers of private members' bills brought forward and the number passed. But I think if we're going to do that, we also need to have a look at the number of things that were brought up in private members' bills that were brought back either through government bills or through minister's directives and that sort of thing. My own private member's bill on farm stray voltage didn't pass in third reading, but the Minister of Energy took action on it and the Ontario Energy Board is now doing discussion papers. Personally, I don't care if my bill didn't pass. I just wanted the action, and I got the action. So we need to have a look at that too. When we're talking about the stats and how many private members' bills have been successful, we need to look at not only the ones that actually made it through third reading and got royal assent, but also the ones that got further action but never really came through under the name of the person who presented the issue in the first place.

0940

The Speaker (Hon. Steve Peters): I will table, Mr. Chair, with the clerk the presiding officers' schedule, past and present, so that you do have that.

Mr. Chairman, on a lot of the issues that I've raised today, my attempt was not opining and offering my opinion. On some of them I did maybe cross a bit of a line, but what I tried to relay today were just observations of sitting on a chair as the Speaker responsible for this building and these grounds. I wouldn't want to leave the impression that "I think you should do this" or "I think you should do that." I'm trying not to opine; I'm trying to just give you observations.

The Chair (Mr. Bas Balkissoon): Thank you. Anybody on this side?

Okay. The last person I have is Mrs. Mitchell.

Mrs. Carol Mitchell: Just a question, Steve, and I do want to thank you for coming out today and giving your presentation.

With regard to deferred votes, one of the comments made by the press yesterday is that what they're looking for is a time period where votes happen on a regular basis so that they know it's identifiable. They feel that could possibly give them better access to cabinet ministers and the Premier, and that was one of the things they talked about.

If that was to go forward as a recommendation, do you see that it would have the ability to affect some of the concerns you talked about, specifically on Mondays and Thursdays—with regard to your time, Steve, those were specifically your concerns. So if deferred votes—

The Speaker (Hon. Steve Peters): Well, I think deferred votes need to remain in the standing orders as part of the routine proceedings, and if we just set a time for those routine proceedings that would be consistent every day, then everybody knows, as is in the standing orders right now—one of the things that, as Speaker, I call for are deferred votes. So if everything is at a set time, then that should satisfy everyone.

Mrs. Carol Mitchell: It was just one of the concerns that Mrs. Witmer brought forward as well with regard to how we go forward, looking for more set periods of time and bells and that type of thing so that the press has the ability and more access to the Premier and ministers as well. That was one of the recommendations that they brought forward.

The Chair (Mr. Bas Balkissoon): Mr. Speaker, thanks for being here. We really appreciate it.

The Speaker (Hon. Steve Peters): Thanks, Mr. Chair. Have a great day, all.

The Chair (Mr. Bas Balkissoon): Members of committee, before we adjourn, I just wondered if you wanted to spend a couple of minutes to request anything so that we can have our final meeting with all the information that you need. Mr. Kormos.

Mr. Peter Kormos: Okay, there, that's it. We're meeting on August 11, as I understand it?

The Chair (Mr. Bas Balkissoon): Yes.

Mr. Peter Kormos: I think it's important that we have some sort of agenda for August 11. I'm not taking about a time frame or a structure; I mean an agenda. So, here, let me say it on behalf of New Democrats: As I said yesterday, our interest here is in getting question period to a point in time after 12 noon. Our interest here is in eliminating those huge gaps of the day on Tuesdays and Wednesdays—I call them wacky Tuesdays and wacky Wednesdays—because you've got those huge gaps in the middle of the day. I think, and again I don't want to speak for people, there probably is agreement that there should be a fixed time for the commencement of routine proceedings/question period, just on the basis of what people have talked about in terms of the public expectation, the staff's expectations, and the respective critics' and ministers' expectations, and for it to be treated as what we call at various conventions "orders of the day."

Whatever else is going on gets interrupted at that time, and you go, at a fixed time, to routine proceedings/question period.

Quite frankly, that's it. The review, as I understand it, is of the provisional standing orders. House leaders have indicated their willingness to meet on a regular basis with the Speaker and the Speaker has set up a structure for that to take place. And it hasn't commenced yet, but that's okay; we're in a break. House leaders at this point—I speak of course for myself and my caucus, and I speak based on what I observe and hear from Mrs. Witmer and Mr. Bryant—appear to be eager and capable of addressing issues at House leaders' and resolving matters or even making recommendations to the Speaker without there being a need for standing order revisions or standing order changes.

So there it is: The issues are the timing of question period, the gaps in Tuesdays and Wednesdays and the disconnect between routine proceedings, at least insofar as they consist of ministerial statements and responses by respective critics—addressing the disconnect between that and question period. As well, I find very interesting the commentary about introduction of bills succeeding question period such that any bills that are introduced aren't going to be the subject matter of question period. It doesn't always happen; as a matter of fact, it probably happens more rarely than not because first reading is usually not contentious. But as you well know, from time to time it most certainly is.

That's the agenda we are looking for: the discussion around those things. Again, I don't expect the government to necessarily put forward their agenda today, but if we could get it in a reasonable period of time before August 11, it would make August 11 much more effective and productive.

The Chair (Mr. Bas Balkissoon): Ms. Broten.

Ms. Laurel C. Broten: One of the things that I think would be helpful for the committee would be a categorized summary of the information received over the two days, highlighting the issues that matter to all sides of the table. I tried to do a rough draft myself of what I thought those topics were.

Certainly the timing of question period—the pros and cons, what we heard people say, putting that under one heading in a document so that someone can see that; the role of the media; we heard a variety of information about Monday mornings; the technical schedule, what have you, having that together; routine proceedings—together or apart; better delineation of various structures within the day—bells, start times—that type of information categorized; we heard different speakers talk about introduction of guests; conduct in the chamber, civility; co-sponsorship, sort of a category unto itself; and there was some really good advice received on private members' bills and how that might be changed or not.

That type of categorization at least summarizes how information would be received and then can be looked at by the committee on the 11th so that it's in an organized fashion.

Does it sound lawyerly my in approach, maybe, summarizing the evidence?

I think Carol also had some perspectives.

The Chair (Mr. Bas Balkissoon): Ms. Mitchell.

Mrs. Carol Mitchell: I would hope—if we can have the official transcripts, whether or not it's broken down in the manner that Laurel just spoke to, I think that would certainly make it a much easier read and something that would be better for the members to use.

I'm just going to throw out dates, and then we can talk about that—on the fifth at noon, if that was conceivable, if we could have something in place by then. If the parties could bring forward recommendations by the seventh at noon from that, and then each party make recommendations. Peter, you specifically went over your recommendations, but if we could receive that, that would give us the springboard into the 11th and certainly a much clearer agenda.

0950

The Chair (Mr. Bas Balkissoon): Mrs. Witmer.

Mrs. Elizabeth Witmer: I think the first thing we need to keep in mind is why we are here, and I think Peter did speak to that. We are here to review the provisional standing orders; we're not here to make other recommendations outside of that. If there are other changes to be made, then I do believe that is the purview of the House leaders, and obviously we're quite capable of making those changes. So I'm a little uncomfortable, because nobody except the government has talked about co-sponsorship of private members' bills. That's not what we're discussing. We're not discussing three weeks on or four weeks on. That's not part of our review. We're reviewing the changes that were made to the standing orders only. If we're going to take a look at some of those other issues, then I believe that is a responsibility of the House leaders. That's not within our mandate.

I would say to you our biggest priority would be the changing of the question period to the afternoon and uniting routine proceedings at that time and having one start time every day as well. I think it's extremely important to us that that would happen.

Of course, we've talked about the problem with the Monday morning. If you take a look at the time that we didn't use in the course of the whole day, you can see that we certainly could forgo the Monday morning session and still, I believe, pass bills.

Those are a few of the priorities that we have that we would be looking for some changes to.

I don't disagree with Laurel. I don't disagree with Carol. I think if you could look through all of the submissions, written and oral, that we received, as they pertain only to the provisional standing orders that we are mandated to review—we're not mandated to go beyond that—I would like to see the same breakdown as to what was said and why, and if you can have it to us by the fifth so we can respond by the seventh for some discussion on the 11th, that's fine with us.

I think the whole issue of private members' bills needs to have a very thorough discussion, and I don't think we can do it here. I don't think that actually is our mandate.

But I like what I heard about Alberta, and maybe the House leaders need to take a look at that, as to how we do that differently in the future.

The reality is, it doesn't matter whether you have co-sponsorship or one person; it's what happens to the bill after you deal with it in the House that makes the difference. Anyway, those are our opinions.

The Chair (Mr. Bas Balkissoon): Before I proceed to the next speaker, I'll just remind the committee of the amendment to the standing orders that was done on May 1, 2008. It actually authorizes this committee to "conduct a review of the standing orders during the 2008 summer adjournment"—it does not say to conduct a review of the provisional standing orders—"and to report its opinions, observations and recommendations on the standing orders to the House by the first Thursday following the resumption of the House in the fall, 2008, and (b) provides for a process to extend or permanently adopt the provisional standing orders, and any amendments thereto, no later than the third Thursday following the resumption of the House in the fall, 2008."

Mr. Peter Kormos: The standing orders are the provisional standing orders. Those are the standing orders that are in effect. The other standing orders are set aside. They are suspended. The reference to standing orders in that provision of the standing orders—because if that wasn't a standing order it wouldn't have power, it wouldn't have effect. So it's that standing order that gives this committee jurisdiction, and therefore it's the standing orders that are in effect today that this committee is to review, with respect.

The Chair (Mr. Bas Balkissoon): If I could just give you the additional, it says to submit the "opinions, observations and recommendations on the standing orders to the House...."

Mr. Peter Kormos: Yes.

The Chair (Mr. Bas Balkissoon): So we can submit, in my opinion, and I will turn to the clerk for—

Mrs. Elizabeth Witmer: Only the ones that are in effect today.

The Chair (Mr. Bas Balkissoon): Yes. We could submit changes to the ones that are in effect today, but we're still entitled to give our opinion, observations and recommendations on anything else, with reference to the standing orders. That would be my interpretation.

Mr. Peter Kormos: That's your interpretation. I think that's overly broad in terms of what this committee has done in the course of three hours and that it intends to dedicate one day to. We may not be able to get this done on August 11, but we'll see what happens on August 11, won't we?

The Chair (Mr. Bas Balkissoon): I think we'll find middle ground.

Mr. Peter Kormos: I admire and respect your optimism.

The Chair (Mr. Bas Balkissoon): Okay. Is everybody comfortable with what will be provided to us?

I think Carol has suggested that we get from the clerk's office by August 5, noon, what has transpired in

the last two days. All the parties have until August 7, noon, to submit suggestions, opinions, whatever.

Mr. Peter Kormos: Where does it say that?

The Chair (Mr. Bas Balkissoon): This is what Ms. Mitchell has suggested.

Mr. Peter Kormos: It was just a suggestion?

The Chair (Mr. Bas Balkissoon): Yes. I have all your suggestions that the clerk's office—

Mr. Peter Kormos: Chair, wait a minute. We passed a subcommittee report. Okay?

The Chair (Mr. Bas Balkissoon): Right.

Mr. Peter Kormos: We passed that yesterday. Let's not change the rules midway here. And I, quite frankly, am not going to stand up and tell the government that they can't raise any new issues if they weren't presented by August 7 or August 6 or August 8.

The Chair (Mr. Bas Balkissoon): I don't think that's what I was saying. You've actually suggested that we have an agenda for the August 11 meeting, and I think what has been agreed by all is that that's a good idea. But to make August 11 work, and so that we all come here

fully informed, we will get a summary of what has taken place—all parties will get it by August 5—and if you have anything that you want to submit for that August 11 meeting, you do it by August 7—

Mr. Peter Kormos: But just as with submitting—

The Chair (Mr. Bas Balkissoon): —after you've read what has been given to you.

Mr. Peter Kormos: Chair, please. Just as with submitting amendments, this is advisory, not mandatory.

The Chair (Mr. Bas Balkissoon): Absolutely.

Mr. Peter Kormos: It is not restrictive. Please make that clear—

The Chair (Mr. Bas Balkissoon): Okay.

Mr. Peter Kormos: —or else you appear to be heavy-handed, and I know you're not.

The Chair (Mr. Bas Balkissoon): No, I'm just trying to move the meeting along.

Okay. So are we all happy with that? Thank you very much. Meeting adjourned.

The committee adjourned at 0957.

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Review of provisional
standing orders

Comité permanent de l'Assemblée législative

Révision du
Règlement provisoire

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Monday 11 August 2008

Lundi 11 août 2008

*The committee met at 0902 in committee room 1.*REVIEW OF PROVISIONAL
STANDING ORDERS

The Chair (Mr. Bas Balkissoon): Can I ask everybody to take their seats? Good morning. We'll call to order the meeting of the Standing Committee on the Legislative Assembly on Monday, August 11 on the review of the provisional standing orders. We have a recommended agenda which is pretty simple, and I'm hoping that somebody will suggest how we can proceed on this whole report-writing process.

Does anybody have a recommendation on where you want to start?

Mrs. Carol Mitchell: Sure. I wondered if we could begin with the discussion about the standing orders, the review process and what it encompasses, so we would get that off the table. I just put that out for discussion. There were some questions that were raised at the end of the last meeting, so I bring that forward, just so that that takes it off the table.

Mr. Peter Kormos: I appreciate that comment from Mrs. Mitchell, but let's cut to the chase; let's understand why we're here. This isn't like the 2002 Legislative Assembly committee, the report of which has been provided to us, where there was an open-ended discussion of a number of issues, in particular the committee and private members' roles. The government introduced amendments to the standing orders that were referred to as "provisional." This was spin; this was designed to more than merely imply but to state outright that these were merely being tested—that this was a test. These amendments to the standing orders were developed with no consultation with the opposition. The so-called period of discussion between House leaders was less than feckless, and the government was hell-bent on doing what it wanted to do. Again, it's trite to observe that governments don't change standing orders unless it benefits the government.

Mr. Rae, now Liberal federal member of Parliament, did that back in the early 1990s. There was no doubt in my mind when he was doing that that that's what his purpose was, which is why I spoke against him and opposed those standing order changes. When the Conservatives were in power, the so-called Baird amendments similarly were designed to that effect, and these are too. I understand that; I'm not crying foul in terms of it not

being within the power of the government. But I'm suggesting that a government or politicians who purport or declare to want to make the process a more civil one or who want to generate a higher level of collegiality—people who are really interested in that would see this effort for what it actually is.

We also know that the so-called review was a little sweetener. It's not an unusual sweetener. As a matter of fact, I'm sure there was, here at the Legislature, a committee that's been sitting lately to review the Premier's health tax, his health premium tax. Remember that, Chair? That was a sweetener in that tax increase: that it would be reviewed as part of the legislation, necessarily by a standing committee. Except that the Premier indicated that it'd be a cold day in hell—those are my words, not his—before he'd ever revoke the health tax or amend it. So the initial observation by both Conservative and NDP members of that committee were that, "This is nonsense; this is silly."

I think we've reached the same stage of nonsense and silliness here. Ms. Witmer is House leader for the Conservatives, and she worked very hard, in her efforts with the government House leader and with me as the NDP House leader to attempt to develop some kind of consensus around the standing order changes. We understood the government's wish list. It wanted to accelerate the passage of legislation and it wanted to eliminate evening sittings. That's a natural, instinctive desire of any government.

The New Democrats have been very clear that, understanding that, our biggest concern about the standing order changes was the placement of question period in the morning, and, as we discovered, those big holes on Tuesdays and Wednesdays in the middle of the day.

The government has presented its recommendations for changes. Am I overly concerned about bell ringing to announce the beginning of question period whenever it starts? Of course not. It's no big deal, and I think it's something that all of us have observed. People who aren't in the chamber—because there are very few people in the chamber at 9 in the morning, through to 10:45 or so when question period starts—do they deserve to be alerted as to the beginning of question period?

What that does, I suppose, is: It highlights the significance of question period. The opposition has been arguing that question period is probably the single most important part of the day, at least as far as opposition members are concerned, because it means the opposition

has the opportunity to fulfill its responsibility to hold the government to account.

So there. Bell ringing before question period: no big trouble about that. It was something that could've been discussed in the hallway. Indeed, opposition House leaders sought from the government some sense of where they were going to. Let's clear this up: I recall, very clearly, at House leaders' meetings, Ms. Witmer and I saying to Mr. Bryant, "Let's cut to the chase. What's going on here? Is there going to be any discussion, movement or consideration of the timing of question period? Say so. If not, well then, for Pete's sake, Mr. Bryant, spend another week at the cottage." Not that he's doing the heavy lifting. Then again, he did send his B team.

0910

So here we are. Was the ringing of bells something that couldn't have been dealt with at House leaders' meetings? Of course not. That was something that Mr. Bryant and Ms. Witmer and I could have resolved in 30 seconds. I think I'm safe in suggesting that.

Introduction of guests: Look, it's six of one, half a dozen of the other. I've watched this go on for years. I've watched the so-called points of order. I was not displeased with giving the Speaker the responsibility to introduce guests, but then I observed members violating that protocol as well because they didn't have a chance to get a name in to the Speaker before that time slot. At the end of the day, I suppose perhaps there should be some consideration of eliminating introduction of guests but for guests who are in the Speaker's gallery. In other words, those would be dignitaries, people who are here sitting in the Speaker's gallery, people from outside the jurisdiction who are elected or in leadership. Again, at the end of the day, two Speaker's announcements of guests—please; a 30-second discussion at a House leaders' meeting—Ms. Witmer, am I wrong? If I'm wrong, say so. Jump up and down and point at me and interject, saying, "Kormos, you're wrong." Say that, Ms. Witmer, please—30 seconds at a House leaders' meeting.

I should make it clear that I have no quarrel with the discussion of co-sponsorship of bills, but I do have some concerns about this committee making a recommendation about permitting co-sponsorship of bills as compared to making a recommendation about a more focused study on co-sponsorship. That's, I suppose, modesty. Am I opposed to that? Of course not, but I think once again we've got to be very careful what we wish for.

Co-sponsorship of bills: What does it achieve? There are other ways of achieving the acknowledgement of joint support. One of them is by permitting but not demanding seconders to bills. In other words, a seconder is allowed but not required. That wouldn't interfere with the individual member's right to introduce a bill where maybe he or she didn't have the support of any other member of the assembly—because it would also create a record. You see, if a bill is co-sponsored, the minute that bill receives second reading, the co-sponsorship is irrelevant; it doesn't appear anywhere. There's no record of the face of the bill in Hansard or in any historical

record. There's a record of the speech making. Again, people stand up now and say, "I agree wholeheartedly with the proposition made by my Conservative colleague" or "by my Liberal colleague," and put themselves on record.

As I say, I'm not opposed to discussing or having some more focused interest in co-sponsorship. To what end? There's an element of fluffiness here: "Oh, let's all be friends. We can co-sponsor bills." If you support somebody else's legislation, say so. Stand up in front of the media, get yourself on the public record, if that's before it gets to be called—and again, we've all seen that done. We've seen opposition members endorse propositions by government members; we've seen government members endorse propositions by opposition members. Or do it during the time called for debate.

I'm not sure that co-sponsorship achieves the goal that its proponents really want it to achieve. As I say, it may, but there are options. One of the options is permitting a seconder or even two seconders to a motion for second reading; that way, there's a Hansard record of more than one person sponsoring the bill. What I'm trying to do is perhaps save us some time. If there's some agreement about that, about there being a call or a request for more thorough consideration of co-sponsorship or some process that permits more than one person to be identified as the driving force or as the host or patron, if you will, of a bill, let's do it.

When it comes to e-petitions, I gotta tell you, sir, there's where I have—and I want people to hear me out—a little bit more concern. I have no quarrel, once again, with this committee recommending a more focused study of e-petitions. There are a number of British parliamentary jurisdictions that use them, but the significant feature of them is that the control over the petition is relinquished by the sponsor of the petition to the respective assembly. There are any number of websites now that permit people who are familiar with webs to create e-petitions, and we've all had them e-mailed to us, saying, "Please put your name on this petition." Most of the jurisdictions, the vast majority, using the British parliamentary system, do not permit those types of petitions simply to be collected, printed off and then tabled in the House. But the legislation in those jurisdictions requires the respective assembly to host the petition for a fixed period of time.

Then you've got the prospect of silly petitions—really absurd, nonsense petitions or nuisance petitions—because if you create a law, you can't start vetting them. The vetting now is by the person who's called upon to present them because, as you know, you don't have to stand up in petitions to present a petition. I suggest to you, sir, that if you had a petition calling for Daffy Duck to become the official logo of the province of Ontario—think about it—you would be disinclined to stand up and read that petition into the record. You'd be more inclined to use the standing order provisions that allow you to simply table it, right? So your constituent has said, "I've got this petition that urges the government to adopt Daffy

Duck as the official symbol of Ontario.” You could say, “Yes, I fulfilled my duty as your MPP.” But you, Chair, would not stand up in the Legislature and read it, I can bet you dollars to doughnuts, because you’re far smarter than that. You’ve been around a long time and you’ve served in elected office for a long time.

I think the sense, by some people, is that e-petitions are going to mean those petitions that now circulate through the Internet world, where people just add their names. I have no quarrel with those; I’ve affixed my so-called signature to any number of them, and they’re of some value because it permits somebody to stand up in the House and say, “The e-petition campaign around issue A, B or C has attracted 10,000 or 20,000 signatures.”

One of the problems—the right to petition goes back to Magna Carta. It was the hard-earned right to petition the king, and it was an historical struggle. So that petition, the right to petition the king, is a Magna Carta-based right. I think, when we look at the standing orders now, they require it to be in its original form, not photocopied, with name, address and signature. I suspect that, historically, that was so that indeed if one wanted to, one could verify who those people are, so you couldn’t stack a petition with a bunch of phony names or deceased people or people who long ago left the province.

That’s why I say we’ve got to be very careful what we’re talking about. I, perhaps having somewhat conservative tendencies when it comes to the parliamentary traditions, understanding how important those roots are, have a preference for real, physically signed petitions. Amongst other things, it also means that people have to go out and work to do it, right? You’ve got to physically sign it. The Internet and the computer have made it all too easy to attach our names to any number of things, and then of course cookies mean that we receive some of the most peculiar e-mails. All of you have gotten them—haven’t they, Mr. Ramal? You’d swear your doctor was giving personal information about you out to the Internet world. You know the ones I’m talking about, don’t you?

Interjection.

Mr. Peter Kormos: Right.

Thankfully, the Legislative Information Services have been able to screen out most of those, but from time to time one sneaks through and I go, “This is amazing. How did they know?”

In any event, I have no quarrel with the proposition of saying, “Let’s take a closer look at electronic petitions.” There’s material out there, there are papers that have been written on the issue. There are other jurisdictions that are experimenting with it, so I think we should recommend studying it. Again, this could have been dealt with in a House leaders’ meeting in 30 seconds.

0920

Calendar: Again, this was raised in House leaders’ meetings by Ms. Witmer, as the Conservative House leader. She, as a matter of fact, initiated, as I recall, the discussion. I joined her in wanting to consider it to discuss it, and I have no qualms about suggesting that there

be discussion or consideration of the type of pattern of four on/one off, three on/one off, but again, to simply recommend four on/one off as concrete, I think is somewhat negligent because we’ve got a rough idea, and there’s some rough support for it, but it’s very general. So I have no qualms about joining with the other members of the committee in a proposition and its report, saying that there should be some speedy consideration of a House schedule. Then we’d also have to know what the year’s schedule would look like because then, of course, it’s going to mean sitting in February, which we usually don’t do—and that’s neither here nor there. I’m close enough to Toronto that getting to Queen’s Park in February or January or March in the winter storm months is irrelevant. I can get here one way or another. But we have to consider what the impact is on the overall calendar.

One of the things, when you talk about the calendar—a corollary of this is: How about proposing that we adhere to the standing order calendar? What a remarkable proposition. What a family-friendly proposition. People could actually plan their vacations, right? Again, I don’t have family, I don’t have friends, so it means nothing to me.

Mr. Lou Rinaldi: You have no real friends.

Mr. Peter Kormos: I have no real hobbies, so it’s irrelevant to me. You want to be here Christmas Day—I would, but as I say, the corollary of a four on/one off, three on/one off is to create a House calendar that identifies when the House sits and when it doesn’t sit, and it should either sit or not sit. That’s how you create some consistency. There you go.

The timing of private members’ business, in the total scheme of things—I think there are shortcomings about the Thursday afternoon, but in the total scheme of things, it’s not something that we’re prepared to knock heads over.

That was the good news. The proposal around deferred votes: I understand why the government wanted to attempt to address that. I’m not sure that the media were being as precise as they could have been when they expressed some concern about that because, in fact, what I suspect—because they were not as clear, be they excellent communicators when it comes to broadcasting or publishing—I’m not at all sure that they were concerned so much about the timing of deferred votes as they were about notice about deferred votes. For instance, their noses were out of joint when it came to the vote on the issue of the Lord’s Prayer. Again, it was nobody’s real fault because they only found out about it literally within moments before it was called for a vote. I’m not blaming anybody for that; that’s just the way it happened. I think that there was some suspicion on their part that the government was trying to sneak it through. I’m not sure that the government was trying to sneak it through. Every caucus knew about it. We were ready to go with it. We had agreed to a truncated debate—comment—on it, but the fact is, the press wasn’t notified, and that’s regrettable.

Let me talk about the deferred vote timing. We know that the most—for the opposition—critical part of the day is question period, and it's after question period that the media have access to ministers and/or critics and/or other members of the Legislature. The government is proposing, as I read it—and if I'm wrong, jump up and down and scream out, "Kormos is wrong." I can't hear any of you doing that yet. But to move deferred votes to immediately after question period would have bells ringing when the electronic media is trying to interview cabinet ministers and, I suppose, the occasional critic from the occasional opposition party, not that we're eager to participate in those things, but sometimes we get cornered by the media and we have the occasional comment forced out of us. But you're going to have (1) bells ringing and (2) people leaving the scrum area—that's the area right outside the chamber—running back into the chamber to vote, coming back out. And that's when you've already got your herd of presses trying to meet some sort of noon deadline if they possibly can, because you've got media members who do noon live commentaries. So I'm afraid, on your proposition about moving deferred votes there, I simply don't agree with you, because it interferes with that very important brief period of time when the issues of question period are expanded upon outside in the scrum area. There are other ways of dealing with that.

Quite frankly, and here we get to the timing of question period, if question period were later in the day than the morning hour that it is, you could join question period more properly with other governmental and parliamentary functions like ministers' statements.

Look, you've heard what we're prepared to join you on, by way of a recommendation. If you want to develop some sort of collegiality here, you might consider that. I've tried to be very fair—well, I have—in terms of acknowledging areas where there can be some common ground. But we asked the government House leader from the get-go whether the issue of timing of question period was going to be an issue discussed here and developed here: "Oh, it's an open-ended discussion." I understand, of course. "Poor, independent-minded members of the Legislature, none of whom have ambition, all of whom are prepared to tell the Premier's office to go pound salt because their careers are so well rooted in their constituencies that they have no need for the Premier's office," Kormos says sarcastically. The print version may well not contain the sarcastic tone.

I'm very disappointed that the government is being so rigid in terms of question period. All that confirms for me is that the government has an agenda in terms of its timing of question period.

As you know, Chair, the opposition can't submit a minority report—it cannot; the rules prohibit it. However, the opposition can submit a dissenting comment.

I would very much like to hear whether we can narrow some of these issues down, whether we can find some common ground, whether we can soften some of the recommendations to the extent that I've proposed so that we can clear those aside and perhaps have some com-

monality, and then either agree or disagree on the other issues, in which case we can dissent. But we're not going to have a broad-based discussion here. I know that that's not going to happen. There's not going to be that kind of exchange because the structure of this whole little process wasn't designed for that.

Mr. Khalil Ramal: Why not? That's democracy.

Mr. Peter Kormos: Mr. Ramal cites democracy—please. Don't trivialize this. That's the sort of silliness that offends people who have a strong belief in democracy.

There you go, Chair. As I say, let's get down to brass tacks here, because we know that this is a bit of a ruse, some pseudo-intellectual onanism for government backbenchers, if you will.

The Chair (Mr. Bas Balkissoon): Mrs. Witmer.

Mrs. Elizabeth Witmer: Thank you very much. Certainly, I would agree with many of the points that have been made by Mr. Kormos.

The entire process has certainly been a disappointment to me and to my leader, John Tory, and the members of the Progressive Conservative caucus. We started talking about standing order changes originally, and I think that we thought we would have some input into the changes. We asked questions about what the changes might be and at the end of the day, unfortunately, we were presented with fait accompli standing order changes. In fact, the government regrettably didn't even have the decency to share the first original draft with Mr. Kormos and myself. The press, actually, had access to it before we did, so we were left to react. To talk about this being a democratic process would be a little ridiculous and obviously not accurate or truthful.

0930

I think we came into this summer committee schedule of meetings believing the House leader, who said that we would have an opportunity to really take a look at the standing orders, that we could review the provisional standing orders, which to us more or less meant the standing orders under which we were operating in the spring—the revised ones, the provisional ones. The key issue of concern has always been the timing of question period. Most of the other issues can be addressed. When we had people come in and speak and make presentations—and there were very few people who did come in—I think even those who did come in, whether it was the media, the Clerk, AMAPCEO or what have you, also expressed some concerns about the timing of the day, as it currently occurs, and some of the problems that that presents.

It was our belief that there might have been a change to the timing of question period. We were certainly led to believe that that was going to be the case—that we could debate, we could discuss, we could hear from presenters. The reality is that the current time of question period, which is 10:45, is not friendly for MPPs, particularly those in opposition. It's very cabinet-friendly. So imagine our shock when we found in the recommendations coming from the government that not only had they not

moved question period to the afternoon at 1 o'clock, as we had suggested, and brought all of the routine proceedings together, which had been suggested by ourselves and others—because right now, it's a very chaotic day. Nobody quite knows what's going on, and there is little attention paid currently by MPPs, the media or anybody else to other parts of the day outside of question period. It was quite disappointing to see that the government is going to actually make it more difficult for us to do our research and prepare for question period and for the staff who have to do the work, whether it's in our offices or obviously the people who support us. That's very disappointing.

I know I've called the health tax hearings a sham. I will tell you, I was so disappointed to get the recommendations from Mrs. Mitchell, which obviously reflect the Premier's office, and not see that they were prepared to even consider moving question period to 1 o'clock in the afternoon, as had been suggested by people who made representation plus ourselves, nor were we going to be reuniting routine proceedings. In fact, in some respects, this is worse than what we had before. Certainly, we would have difficulty supporting these recommendations, because we end up now with the government trying to divert the attention of the media, or whoever in the public might be interested or ourselves, to issues that really aren't part of what we consider to be a review of the provisional standing orders.

They're now suggesting that we change the calendar to four weeks on and one week off. Originally, we said that we were prepared to discuss that type of a change, but there was nobody in here who sat at that table who said, "That's what should happen." Here, we have the government saying, "We support the suggestion of changing the calendar to four weeks on, one week off." I'm not sure who suggested that other than the government, as I say, trying to divert attention away from the key issue of concern, which is the timing of question period today, which is going to be moved, according to the government, from 10:45 to 10:30.

Obviously, this is an issue that we can't decide in here today. My colleagues have not had an opportunity to even consider it. If you take a look at the year ahead, people have made plans, so when you do make this change you need to make sure that people have an opportunity to prepare. Maybe we don't want four weeks on and one week off; maybe we want three weeks and one week. We just don't know, and our colleagues haven't been provided with the opportunity to even take a look at it. There's an issue that we're certainly willing to consider, but we believe that this is an issue that should be further addressed by the House leaders and a decision arrived at.

As far as deferred votes, which would now be proposed to come after question period, I think Mr. Kormos has made some good points regarding that. However, it's still kind of a chaotic day, because petitions would now move to the afternoon, and nobody is here in the afternoon. Sometimes it seems like no MPPs really care, and

cabinet ministers sure aren't here, so MPPs and the issues they bring forward will be getting less attention than ever before. Plus, it will mean that if we have deferred votes, the bells are ringing when people are being interviewed. Who knows what time the House might be adjourned? So it's a suggestion that I think you have to think about.

Again, the House leaders need to take a look at the impact of having that right after question period and the impact of further minimizing the role of the MPP by having petitions apart and away from question period into the afternoon when it appears that the level of interest amongst members is at its lowest. I thought that what we were trying to do is to somehow stimulate some interest as to what's going on here. So it would perhaps see a further erosion of the role of the MPP.

E-petitions: I think Peter has spoken well to that. We're certainly prepared to discuss that further, but not in here. I think there are too many questions that still need to be answered. We need to take a look at the pros and the cons. Again, we've had no opportunity to discuss that with our colleagues.

Private members' business: We still believe that if the role of an MPP is significant and if we want to make sure that MPPs have a significant role in this Legislature, the morning is the most appropriate time for private members' business. It's now relegated to the end of the day on Thursdays. I can tell you: Many people are gone, and certainly cabinet ministers are nowhere to be found. We've suggested moving it to either Wednesday morning or to Thursday morning. I think the schedule that we've presented would allow for that to happen. Whether you have three items of business or two, it's irrelevant. The reality is, if the bills are simply going to go into a big black hole and they're not going to be moving forward, and if the Liberals really want to make private members' bills more relevant, I think we need to take a look at what they do in Alberta, where you can refer private members' bills to a policy field committee and you can transfer them to government business. But to increase the number of private bills and have them sit in a black hole doesn't make much sense when people put in a lot of time and effort. I think the government needs to say either yea or nay and then we need to move forward. Again, I think that whole issue of private members' bills—and then we see that they've brought up this issue of co-sponsorship. I think Mr. Kormos has spoken to it. It really doesn't matter; if the bills are still going to go into no man's land at the end of the day, it certainly isn't going to improve what's going on here.

0940

So, again, I think that's a bit of a red herring and an attempt to divert our attention from the key issue of concern, which is the timing of question period and our request, and certainly the requests that we heard from other people, that it be later in the day. Our suggestion is 1 o'clock, and our suggestion is that routine proceedings be all together in the afternoon. You would have petitions; you'd have introduction of guests; you'd have ministerial statements, and votes. So there would be one

time of the day, beginning at 1 o'clock every day, when the public, the media, the people who work to support us, and members would know that this is when we're going to have question period; this is when we're going to have routine proceedings. Because, as I say, what's happening today is certainly quite chaotic and disorganized. Nobody quite knows when anything is happening because of the staggered times of question period and ministerial statements.

The introduction of guests can be quickly resolved. Personally, I like the Speaker introducing the guests. I think he did it in a non-partisan way. We are a professional body, and I think, unfortunately, sometimes when members were introducing guests, it became a little bit partisan. In fact, we'd be happy if only the distinguished visitors in the upper gallery were introduced. But we're not going to spend a lot of time on that particular issue; our issue is question period, so let's go to question period. As I say, if we're going to have introduction of guests, we would really support the Speaker doing it. I thought he did an excellent job. Everybody was introduced in the same way; nobody got any special treatment, and I think that is appropriate.

Question period: Here's the government suggesting, when we've heard from everybody that the time currently is presenting some sort of a problem, whether it's the media, members, staff who work here—and I have no idea why they've decided to bring it forward 15 minutes earlier to 10:30. I will tell you that we've always been led to believe by the government House leader that we definitely would never have it any earlier than 10:45, so I'm not sure why this has happened. We heard AMAPCEO speak about the burden of this early time as well, and the stress and pressure it puts on staff and resources.

The bells: That's pretty simple; nobody needs to debate that. Let's just make sure that people at least know when question period is happening, and we can move forward.

The recommendation that the House begin at 10:30 on Monday morning: The truth is, if you take a look at what happened between May 5 and June 18, when we had the new standing orders, we actually lost a total of 34 hours and 12 minutes because of early House adjournments. So it wouldn't be much of an effort to totally eliminate Monday morning sitting times altogether, which was something that we had recommended.

At the end of the day, I'm not sure that there's much that this committee can do. I think, in some ways, we've been brought together under some false pretenses. I thought I heard the House leader say, Mr. Kormos, that we'd have an opportunity to take a look at question period time, discuss it, and perhaps look for some changes to the daily schedule as it currently exists. Then we see the government bringing forward a couple of issues, which, as I said before, seem to be an attempt to divert our attention away from the key issue of concern, which is question period.

Suddenly, now we're being asked to agree whether it's four weeks on and one week off or joint co-sponsorship

of bills. As I say, we certainly couldn't come to a conclusion here today. We would have to discuss that with our colleagues, and I think most of what's here can be discussed by House leaders. I think some of the issues we could get off the table very quickly, and hopefully that the government would listen to some of our concerns.

I guess that's my disappointment as well. We did bring forward a schedule which enabled the government to do what they wanted to do, which was accelerate the passage of bills, sit more hours and eliminate night sittings, and we don't see any of our recommendations incorporated into the package of recommendations made by the government. At the end of the day I think we'd be left, if the government decides to go forward unilaterally with these nine recommendations, which we feel require further debate and discussion with our caucus, amongst the House leaders, in a position where we would have to present and write a dissenting report, because I don't think this committee has the authority or the mandate or has been given ample opportunity to discuss these issues with our colleagues, who are all going to be impacted. Thank you.

The Chair (Mr. Bas Balkissoon): Mrs. Mitchell.

Mrs. Carol Mitchell: I thank the members who have spoken for their comments. I guess what I'm looking for is what I believe there might be concurrence on, and I'll just jump in.

It appears to me that we have agreement that there should be a bell at the beginning of question period. I know that we still have discussion on when question period is, but that there should be a bell, which does make the transition easier for members by announcing question period.

With regard to Monday morning sittings, I believe that there is support for that; we agree to begin Monday at 10:30.

With regard to the calendar, four on and one off, obviously that would have to be worked into the calendar. Peter, I appreciate your comments on following the schedule so that all members know what that schedule would look like. But we certainly have heard numerous comments of support for the schedule being altered for four on and one off.

I think when we get into the next points, I'm not sure that there is as much concurrence, but I'm going to get to that and then we can see where the discussion goes from that.

The co-sponsoring of bills: We have spoken about that, why we feel it is important.

I'm just going to speak specifically to e-petitions as well. The recommendation that I believe should be considered is that the House consider looking at e-petitions. Peter's comments, I believe, are something that should be weighed much more when we look at e-petitions.

So that's private members' business, and that is that it remain on Thursday afternoon, and the co-sponsoring of bills. Then, specifically, introduction of guests: We are supporting a five-minute morning and a five-minute afternoon. I just wanted to speak about that for a

moment. I guess with regard to Peter's comments about the Speaker's gallery, that would still proceed onward and upward. One of the concerns from the members is that when it's limited to either the morning or the afternoon it doesn't give them the opportunity to introduce guests who might be arriving to listen to the debate when it's the two time slots. So they would like an opportunity to introduce their guests, and they felt that it was important to have the two time slots in recognition of the different time frames that people would come into.

0950

So we have spoken with regard to the other issues, and I really do appreciate all the discussion that we have had on all of the different issues.

Just as a point of clarification, from the members' points of view from this side—and I'm not going to refer to how you refer to us, Peter; we're all part of the team, and we believe that this is for our members as well—we understand that the schedule can be very difficult. A number of us are from out of town and also from in town. We feel that what has been recommended will make the flow that much easier, while being very respectful of accountability and accessibility to the media and having an understanding of what the staff needs as well, and certainly the recommendations are reflective of that.

So, just to recap, do we have concurrence on the bell for the start of question period; the elimination of the Monday morning debate time so that it would begin at 10:30; the calendar of four on/one off; co-sponsoring bills? E-petitions—that's for the House to consider.

The Chair (Mr. Bas Balkissoon): Mrs. Witmer.

Mrs. Elizabeth Witmer: No, we certainly could not support the four weeks on and one week off. As I say, we've had absolutely no opportunity to discuss this with our colleagues. The other thing we don't know, I guess based on what has happened with the standing order changes, the process—we don't know when the government is planning to start the four weeks on and one week off. Right now, people have made commitments, I dare say, even for the wintertime, so we just simply couldn't agree to that unless we had an opportunity to discuss with our colleagues whether they thought four weeks and one was good—and also, we don't know what your planned start date would be. Are you planning to start this in September? Are you planning to start this in February 2009? We don't know. I think that's the type of information that we would need. Unless we have that, we certainly couldn't agree. I think the House leaders need to discuss it a little bit further. We need more information.

As far as the bells before question period, we do support that, although we don't support your change to the question period time.

Monday: Again, if we go back to question period's starting time, we believe it should be 1 o'clock, so we certainly wouldn't agree with that.

We believe the co-sponsorship of bills, anything related to private members' bills, really needs separate study.

E-petitions needs some private study.

The introduction of guests: We're now going to devote 10 minutes to the introduction of guests. I guess that's okay, but when it's not the Speaker introducing the guests, some of the introductions, I would say to you, are partisan; they're not very professionally done. I think we need to consider allowing the Speaker to do it, if we're going to extend the time, so that everybody will be treated fairly, in a professional manner. So if we're going to do it twice, that's fine, but our preference would be for it to be the Speaker so that there would be some fairness.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: I missed a lot of the hearings leading up to today, but I did get a chance to read through all of the Hansards and all of the comments made. It seems to me that the proposals put forward by Mrs. Witmer in terms of a schedule and the other issues raised respond to the concerns that were brought up at the hearings.

In particular, with the House schedule, we have—I noted that the Clerk described the trial provisional session as being "clunky." I think all of us would agree that things are quite broken up and there are a lot of gaps in the times when the Legislature is sitting. What we proposed is a schedule whereby on Monday mornings, the House wouldn't sit, for the benefit of out-of-town MPPs, so that they can spend Sunday night with their families, then having question period at a set 1 p.m. time, always starting routine proceedings with question period and reuniting all routine proceedings at 1 o'clock. We proposed to have private members' business on Thursday morning starting at 9:30.

I think, generally, the proposals we put together are much neater, cleaner and respond to the wishes of the Clerk and of the media, who were looking for a set time for question period to start and, I think, if you read through the comments, preferred to have the afternoon versus the mornings because it didn't interfere with their noon-hour media time schedule.

From my perspective, it was put forward by Mrs. Witmer and our party, but it seems to me to be responding to a lot of the concerns that were raised at this committee. I just wonder why the government isn't picking up on some of these suggestions.

The Chair (Mr. Bas Balkissoon): Mr. Kormos?

Mr. Peter Kormos: Mrs. Mitchell wants to respond to that.

The Chair (Mr. Bas Balkissoon): Oh, sorry. Mrs. Mitchell?

Mrs. Carol Mitchell: I just want to clarify: We have picked up on some of the recommendations. Some of the recommendations came specifically with regard to the bell on Monday mornings. Those were recommendations—the four on, one off. If I go back to Mrs. Witmer's comments and Mr. Kormos' comments, those specifically were concerns that were raised in the past in going forward.

I want to speak to the four on, one off for just one moment. It wouldn't come into effect until February—

Mr. Norm Miller: Excuse me, if I may interrupt for a second: I don't believe we raised the four on, one off. It very well might be something that our members would be supportive of, but it's not something that we raised.

Mrs. Carol Mitchell: What I'm speaking to specifically was—Mrs. Witmer, did you not say that you spoke about it at House leaders', that it came forward at a House leaders' meeting? Was that not part of your comments just a few minutes ago?

Mrs. Elizabeth Witmer: We were having a discussion and saying, "Is this what you're proposing?" during House leaders'. But as you know, the first set of provisional orders didn't include that. No, we didn't say, "This is what we demand happen"; we were just saying, "Is this what you're thinking of doing? Is this what we're going to be discussing?" I guess, at the end of the day, this is not something we demanded. We wondered if they were going to do it, were going to take a look at it. We never got a response. If this is what the House leader wants and this is what the government wants, we should have been discussing it at House leaders' rather than having it dropped here, because our members don't know anything about this.

Mrs. Carol Mitchell: And to be clear, I did not insinuate that it was a recommendation coming. What I was referring to was part of the discussion and comments that were made as part of the discussion. But specifically with the review, the committee has been challenged to conduct a review of the standing orders, and that's where I began my comments.

I turn it back to Peter. These are the areas that I feel we can go forward in and we do have some agreement on, if we could deal with those. I know that there are a number of outstanding issues, if we could have some concurrence on going forward from some of the specifics.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.
1000

Mr. Peter Kormos: Let's not kid ourselves into thinking it's some sort exhaustive effort on the part of this committee. We heard from one afternoon of people, then from the Speaker the next morning—if I'm wrong, please say so—a total of perhaps four hours. We didn't receive any scholarly papers, if you will—or review them—that were in any way exhaustive.

Let me refer people to what this committee, the Legislative Assembly committee, back in 2001-02, adopted as its guiding principles:

"(1) Members of the committee should strive to reach a consensus;

"(2) The reports should remain true to the Westminster model of Parliament, and to the role of parties in that model;

"(3) The committee should approach its work by recognizing that certain features of the Legislative Assembly—for example, the structure of the parliamentary day, the structure of question period, the ability of all private members to participate in question period, and the use of time in the course of a parliamentary

day—are working well, and by reflecting on what features from other jurisdictions might enhance the role of private members at the Legislative Assembly."

To be fair, in reference to that last comment about the role of private members—that was one of the focuses, the foci, of that committee.

At this point, I want to know how we're going to do this. Is this going to be a consensus model? Because it's one thing for this committee to report back to the House, saying, "This is what the committee agreed upon and recommends," and then, it can go on to say the committee was unable to reach agreement on the following issues, like the timing of question period, like any other number of things that are raised by the respective caucuses in the committee. That type of recommendation would have potency that other forms wouldn't have. If that's what we're going to do, I am prepared to work at arriving at a consensus and I can, as I already indicated, commit the New Democrats to support a question period bell.

I'm loath to endorse the commencement of Monday at 10:30 because that entails an endorsement of the beginning of question period at 10:30.

I am prepared, on behalf of my caucus, to suggest that there should be some study and the preparation of an annual calendar, with the contemplation of more frequent weekly breaks, whether it's three on, four on—who knows? It's a matter of determining what the totality of the calendar will look like and how it'll accommodate the seasons. I'm prepared to say that this committee recommends that there be an investigation and consideration of the impact of adopting the three on, four on, one off, or something similar to that.

I'm prepared to commit the NDP to saying that this committee should do a more exhaustive study of e-petitions and what form, if any, they should take.

I'm prepared to say that this committee recommends that there be two opportunities in the legislative day, one in the morning and one in the afternoon, for the Speaker to introduce guests. It's a double-edged sword. I suggest to you that the opposition members can be far more partisan in the introduction of guests than government members could ever be. "Mr. Speaker, please allow me to introduce John and Jane Doe, who are the chair and vice-chair respectively of the committee to expose the lies and dishonesty of the McGuinty government." That's the very sort of thing—we've seen it happen, haven't we? We've slipped in a political agenda when members were still introducing guests, and not, from time to time, when members cheat and introduce guests. I concur 100% with Mrs. Witmer. I indicated my real preference would be just for the Speaker to introduce guests in the Speaker's gallery, but a morning and afternoon introduction of guests, fine.

So that's where we have agreement. It seems to me that if we're going to proceed on that basis, then we have to be proceeding on that basis. If you just want to proceed on a majority vote, a majority rule or some sort of half and half, neither fish nor fowl, say so. That may be

it; I don't know. It doesn't appear that there's been any need or interest by the government members in caucusing around these proposals.

This is my suspicion, that the government knew it had to have a Legislative Assembly committee review the interim standing orders because their own motion required that. Again, that was spin to try to make it look like there was going to be a sincere, honest, open review. So the government members are here, warming these seats, fulfilling that function. They're being allowed—as I say, that pseudo-intellectual onanism—to entertain little projects like co-sponsorship and so on, but they're being told that, at the end of the day, they're not to permit or concede any change in the timing of question period. Okay, that's what benchwarmers do in a government.

But let's decide now, and if they want to caucus, if Mr. Rinaldi is going to have any input into this or if Mr. Ramal is going to have any input, maybe a 15-minute recess so that these people can caucus and decide how they're going to approach this. Unless they're simply reading from the script and Mrs. Mitchell is whipping them; Mrs. Mitchell has accepted the leash. She knows her limits. She knows how far down the driveway she's allowed to run. That tug on that choke collar is a particularly persuasive thing when you're a government backbencher who's ambitious.

So maybe a 15-minute recess would be appropriate—I don't know how people feel about that—so the government can decide. Are they going to approach this on consensus? Because we can do that. We can arrive at consensus, and then we'll report what we've agreed upon and acknowledge that there were certain areas where there was no agreement. That seems to me an intellectually honest way to do it; isn't it, Chair? Is that an intellectually honest way to do it? I would accept your counsel in that regard.

The Chair (Mr. Bas Balkissoon): It's a real challenge. Mrs. Van Bommel?

Mrs. Maria Van Bommel: Further to Mr. Kormos's comments and earlier suggestions about things such as study of the private members' process, and Mrs. Witmer also brought this up, I have no concerns about the idea of doing further study on how we can do the pros and cons of co-sponsorship and maybe how we can change the whole process so that we see successes for private members' public business.

Also, on the e-petitions, as a grandmother with young children who are so comfortable with a computer that to them it's second nature to participate in things such as e-petitions, I think maybe we do need to look at some of the pros and cons of approaching that. I think that further study as a recommendation from this committee is valid.

Mr. Kormos talked about—and Mrs. Witmer did the same—some of the biases that could be implanted in introductions of guests. I think, as much as I feel that I like to introduce my own guests from my riding, there is certainly that possibility, as Mr. Kormos has said, that you could ascribe certain things to your guests. Quite frankly, I'd feel I was more using my guests then to bring

forward a political opinion rather than actually introducing them as honoured guests to the House. I guess it's a personal thing for myself. I don't really feel comfortable in using that type of environment as a way to bring forward my own political biases, but I think we can compromise on those issues.

1010

Mrs. Elizabeth Witmer: I have a couple of questions, I guess, for the government. Mr. Miller has reviewed our proposal one more time with the government, which I think is very solid. We submitted that to the government members. It allows the government to accelerate the passage of bills, sit longer hours and eliminate night sittings. Basically it meant, as has been said, we would sit Monday afternoon and we would sit Tuesday, Wednesday and Thursday.

I wonder if the government is at all prepared to consider a recommendation that question period would be moved to 1 o'clock every day—Monday, Tuesday, Wednesday, Thursday—in order to allow for more question period preparation for both the opposition parties and the staff, whether it's our staff or whether it's the civil service staff, and also to satisfy what I believe we heard, and that was the need for a consistent, set start time for question period to be followed by the orderly conduct of business in the Legislature and a reuniting of routine proceedings, rather than having sections of routine proceedings at about four different times on four different days.

Connected to that, if they would be prepared, based on the fact that we didn't use 34 hours and 12 minutes of debate time between May 5 and June 18, to eliminate Monday morning altogether in order to allow MPPs to spend Sunday evenings with their families or at events. I think we all know that—you know what? For us, it's actually the only day that we have dinner together. We're gone Friday night, we're gone Saturday night—at events—and if you're somebody coming from Ottawa or northern Ontario, it's pretty tough to get here on Monday morning. I just wonder if the government is prepared to go back and take a further look at that, or have you been told that this is it?

Mrs. Carol Mitchell: I guess I'm speaking. Thank you. I want to go back on how we go forward. Specifically, Mr. Kormos made comments about, is it concurrence or is it the committee—certainly an assumption that we would treat this as any other committee and would use the same processes. So I guess what I would ask of the Chair is how he would recommend we go forward. We have a number of issues that we can agree on with regard to Mrs. Witmer's comments; we have a number that we disagree on. So I would ask how you see the process going forward.

Mr. Peter Kormos: Point of order, Mr Chair: With respect, that's not your function.

Mrs. Carol Mitchell: Okay. Thank you. Then, I would put the recommendation forward that specifically the bells—I'm going to go back to the bell situation. That was what we had concurrence on.

Mr. Peter Kormos: Chair, if I may, I move that we have a 15-minute recess.

The Chair (Mr. Bas Balkissoon): Mr. Kormos has moved a 15-minute recess.

Mr. Peter Kormos: That goes to a vote.

The Chair (Mr. Bas Balkissoon): It's now 10:15. All in favour of a recess?

Mr. Peter Kormos: Recorded vote, please. Chair, a 20-minute recess pursuant to the standing orders.

The Chair (Mr. Bas Balkissoon): That changes the motion to a 20-minute recess.

Mr. Peter Kormos: No, it's not a motion.

The Chair (Mr. Bas Balkissoon): A 20-minute recess.

Mr. Peter Kormos: Thank you kindly.

The Chair (Mr. Bas Balkissoon): We'll be back here at 10:35.

The committee recessed from 1015 to 1035.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting.

I have a motion by Mr. Kormos. Mr. Kormos moves that there be a 15-minute recess. It's a recorded vote.

Interjections.

The Chair (Mr. Bas Balkissoon): No, he had moved a motion that I had not taken the vote on.

The motion, again: Mr. Kormos moves that there be a 15-minute recess.

Ayes

Kormos.

Nays

Mitchell, Ramal, Rinaldi, Van Bommel.

The Chair (Mr. Bas Balkissoon): The motion is defeated. Mr. Kormos.

Mr. Peter Kormos: I move that this committee report only on matters on which there is a consensus.

The Chair (Mr. Bas Balkissoon): Any discussion? Mr. Kormos.

Mr. Peter Kormos: I think it's incredibly important that if there is to be a truly bona fide consideration of the so-called provisional standing orders, as was declared so many times during the course of the contentious debate around those provisional standing orders, promised by the Premier and by Mr. Bryant, and in view of the willingness stated clearly this morning by the opposition parties—Mrs. Witmer, Mr. Miller, and myself—to work to build consensus and our eagerness to report on matters on which there is consensus, and in view of the same guideline, albeit a guideline adopted by the Legislative Assembly committee of 2001-02, chaired by one Margaret Marland, of whom I am a great fan, that there be consensus building, I believe this is a proper guideline for this committee to adopt and it would make its report that much more potent and robust.

The Chair (Mr. Bas Balkissoon): Mrs. Mitchell.

Mrs. Carol Mitchell: Just a very few short comments: Certainly, we appreciate the comments that have been made by the opposition, and we concur that the committee system is so important to the overall ability of members to speak out and to have a further opportunity to hear from presenters as well, to receive different viewpoints, and we certainly have done that, and we believe that the committee system's strength is demonstrated by that. But at this time, we would move forward in normal circumstances, as in other committees, and certainly, wherever we can work together and amendments come forward or adjustments be made, we have been willing to listen and adapt, but we would support moving forward with the normal committee system.

1040

Mrs. Elizabeth Witmer: Before we would move forward, I did ask some questions of Mrs. Mitchell and I didn't get any answers. I just wonder if you would respond as to whether or not the government was prepared to further consider our proposal for the consistent set time for question period, and then the reunification of routine proceedings and elimination of Monday morning.

You didn't respond to my questions. If the answer is no and the government's set on what's here, then I just would like an acknowledgement of that fact. I just wanted to know if there was further willingness on the part of the government to take a look at those issues for the revised schedule.

Mrs. Carol Mitchell: Specifically to Mrs. Witmer's comments, we have reviewed extensively the recommendations that were put forward by yourself and your members, who I'm sure provided contributions to that. We have come forward with our recommendations based upon all information that we received through the committee system as well as information that we received from Mrs. Witmer.

Mrs. Elizabeth Witmer: I just want to reiterate that I think it's important for the record that we acknowledge how limited the presenters actually were. We did not hear from the public; we heard from Professor Nelson Wiseman from the University of Toronto, we heard from the Clerk, accompanied by Hansard and broadcast services staff, and we heard from the Speaker and from the media. There actually were very few representations to the committee.

The Chair (Mr. Bas Balkissoon): Mr. Kormos?

Mr. Peter Kormos: I'll respond briefly to Mrs. Mitchell, who wants to speak glowingly of the process that this committee has endured for the last two meeting days. It was on the last meeting day, when Mrs. Witmer requested some information from research, that there was an effort by a Liberal committee member to block it under the guise of it being irrelevant, she apparently not understanding that it's not up to her to determine what type of information a committee member, be they government or opposition, can call for. This is hogwash, Mrs. Mitchell; it is indeed.

Look, if you're going to set a tone, you're setting a tone. It's a tone that may well carry on into the legislative

chamber when the House resumes, when Parliament resumes—and it won't be September 22, either. Don't worry about that, Chair. Your services will not be needed until well into the month of October; you can count on that. This government has been more noteworthy in its failure to abide by the calendar than its willingness to do so.

I am afraid that this process is turning into the process that I feared, but me being the forever and inevitable optimist, I had hoped for the best. I am an optimist; I had really, really hoped for the best. I came here this morning with an overture at the very commencement of this proceeding, trying to indicate that we were interested in joining with the government in a series of recommendations in a report to the Legislature, and you do that by working on building consensus, by ceding a little bit and getting a little bit. There's nothing wrong with that process. Nobody abandons principles when we engage in that process. It's a process of building collegiality and laying a foundation for civility, but it appears that there's no interest from the government in doing that. It doesn't surprise me but, again, my heart is broken because, at the age of 55, I remain optimistic and still reach for that elusive brass ring. I hope I live long enough to achieve that goal of seeing that from a government here at Queen's Park.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: Yes, speaking to Mr. Kormos's motion to do with this report being based on consensus only, certainly precedent has been set with the committee that met in 2002, I think, chaired by Margaret Marland. It made a number of recommendations, particularly to do with private members' bills. It came up with eight substantive recommendations. So I would support Mr. Kormos's motion that this committee report on what there is consensus—what we agree on.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: Before this goes to a vote, let's understand that when you operate on the premise and the guideline and goal of consensus, it doesn't mean there has to be consensus on every issue. What that means, then, is that you simply identify certain issues around which there was no agreement. Using a consensus model doesn't mean that you have to somehow hammer out agreement on every item on the list. You do, on as many items as you can, and then you acknowledge failure to reach consensus on the balance.

You see, the government seems to be prepared to use its majority power to force the opposition into preparing dissenting reports. I say that a civil and collegial process would be one in which a committee said, "These are the things about which we can reach consensus and, regrettably, these are the things about which we can't. Therefore, we make these recommendations and decline to make recommendations on the others because there was a failure of consensus."

You've got a government here that's trying to lure opposition into what would appear to be consensus on the cherry-picked items but then flee from consensus on the items that it wants to simply force through.

I submit that it's time to put this matter to a vote, Chair.

The Chair (Mr. Bas Balkissoon): I have a motion by Mr. Kormos. He moves that this committee report only on matters on which there is consensus.

Mr. Peter Kormos: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote.

Mr. Peter Kormos: Eight-minute recess pursuant to the standing orders, please.

The Chair (Mr. Bas Balkissoon): A recess for eight minutes. It's now 10:48, so we'll be back at 10:56.

The committee recessed from 1048 to 1056.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting on the motion. Mr. Kormos moves that this committee report only on matters on which there is a consensus. It's a recorded vote.

Ayes

Kormos, Miller, Witmer.

Nays

Mitchell, Ramal, Rinaldi, Van Bommel.

The Chair (Mr. Bas Balkissoon): Motion does not carry. Mrs. Mitchell?

Mrs. Carol Mitchell: I would put forward a motion that a five-minute bell start the beginning of question period.

Mr. Peter Kormos: On a point of order, Chair: It seems to me that—and again, you'll rule on this point of order—report writing is precisely that. There are views expressed, and then the staff writes the report. Sorry to surprise the public, but people don't sit at their word processors and do this work themselves; we have very capable staff. Then the vote is on the report itself. Are we going to have a vote on each and every proposition—I suppose that's up to the mover as well. So I ask you, sir, whether it's in order for this to be done vote by vote, as compared to merely directing the staff.

The Chair (Mr. Bas Balkissoon): Mr. Kormos, the best I can explain is that it's really the will of this committee how you want to write the report. If you'll recall, Mrs. Mitchell tried to get me to suggest a method. I did not and you did not—

Mr. Peter Kormos: I did; I moved a motion.

The Chair (Mr. Bas Balkissoon): We've had a lot of discussion with the submission of the parties, the government and the opposition. I guess it is really now up to the committee how they want to move forward. I suppose we could take it, as Mrs. Mitchell has—motion by motion. We will still have to vote on a report prepared on what those recommendations are as the final report.

Mr. Peter Kormos: Thank you. I have no quarrel with that. I just want to be clear: Mrs. Mitchell's motion, then, is in order?

The Chair (Mr. Bas Balkissoon): Absolutely.

Mr. Peter Kormos: Thank you.

Mrs. Elizabeth Witmer: Do you want to read the motion one more time?

Mr. Peter Kormos: Chair, if I may, could we have written copies of these motions? I believe that the practice is, in terms of substantive motions—and these are substantive motions—that written copies be prepared for committee members, in the proper form, of course.

The Chair (Mr. Bas Balkissoon): Can we take a five-minute recess so that we can have the motion presented properly? It is now, according to my clock, right on 11. So we'll come back at 11:05.

The committee recessed from 1100 to 1105.

The Chair (Mr. Bas Balkissoon): We'll reconvene the meeting. I have a motion. Mrs. Mitchell moves that the start of question period begin with a five-minute bell.

Mrs. Carol Mitchell: This motion is put forward with the intent that this five minutes does not come out of the allocated question period time, so I wanted to make sure of the language. I just wanted to raise that as a concern.

Mr. Peter Kormos: If I may, Chair, perhaps Mrs. Mitchell would consider a friendly amendment that question period be preceded by a five-minute bell. That then preserves the one-hour question period. I know what she's trying to do, and quite frankly I'm going to support this motion.

The Chair (Mr. Bas Balkissoon): So change "start of" to "preceded by."

Mr. Peter Kormos: It's up to Mrs. Mitchell.

Mrs. Carol Mitchell: Yes, and I certainly would support that amendment. I did raise this, as our intent was not to take any time away from question period, but only to recognize the importance of question period by a five-minute bell, as reflected by the member's concerns.

The Chair (Mr. Bas Balkissoon): I now have a revised motion with a friendly amendment. Mrs. Mitchell moves that question period be preceded by a five-minute bell.

Mrs. Carol Mitchell: Thank you.

The Chair (Mr. Bas Balkissoon): So we'll take the amendment, which is striking out "the start of" and replacing "begin with" with "preceded by." All in favour? Against? That carries.

The motion, as amended, is that Mrs. Mitchell moves that question period be preceded by a five-minute bell. All in favour? Against? That motion carries.

Mr. Peter Kormos: Are you on a roll, Mrs. Mitchell?

Mrs. Carol Mitchell: I'm hoping.

Mr. Peter Kormos: Not yet.

Mrs. Carol Mitchell: I have another. I would put forward this motion: that the legislative calendar, beginning in February, be adjusted to reflect four weeks on and one week off.

The Clerk of the Committee (Ms. Tonia Grannum): Can you repeat that?

The Chair (Mr. Bas Balkissoon): Can you read it again?

Mrs. Carol Mitchell: That the legislative calendar be adjusted to reflect, beginning in February, four weeks on and one week off.

Mr. Peter Kormos: Chair, if I may, are copies coming of these respective amendments?

Mrs. Carol Mitchell: I'm just trying to move things forward.

Mr. Lou Rinaldi: Is there a recess right now, Mr. Chair?

The Chair (Mr. Bas Balkissoon): Just a second. I'm waiting for the written motion so I can read it.

Mr. Peter Kormos: Chair, can I suggest that these motions, because they're substantive rather than procedural, be written, as is the norm? Are we going to do these piecemeal, one at a time? I don't know.

Mr. Khalil Ramal: No.

Mrs. Carol Mitchell: No, we're hoping to do it better.

Mr. Peter Kormos: Thank you.

The Chair (Mr. Bas Balkissoon): Are you going to be moving a lot more that we need to copy them all at once?

Mrs. Carol Mitchell: I'm hoping that I have, very shortly, copies for everyone.

The Chair (Mr. Bas Balkissoon): But you have other substantive motions?

Mrs. Carol Mitchell: They will be coming, yes.

The Chair (Mr. Bas Balkissoon): Are we going to go through the same routine, or can we do it all together?

Mr. Peter Kormos: Chair, Ms. Mitchell is suggesting that she has hard-working, underpaid staff working hard trying to produce these for us to bring them in here so they can be distributed one at a time.

1110

Mrs. Carol Mitchell: Yes. After the discussion this morning, I felt that we needed to bring them forward point by point. Where we can group we will, and we look to the committee to see how those motions will be dealt with. But, yes, we're bringing forward written copies.

Mr. Khalil Ramal: Mr. Chair, I don't mind if Ms. Mitchell brings in a bunch of motions together and then we can—

Mr. Peter Kormos: I'm sure you don't mind. So what? What's that got to do with parliamentary procedure—that you don't mind? Good God, Mr. Ramal.

Mr. Khalil Ramal: She asked and I responded. I responded—

Mr. Peter Kormos: And Ms. Mitchell is comforted.

The Chair (Mr. Bas Balkissoon): Order. Ms. Witmer?

Mrs. Elizabeth Witmer: Right. I would not, on behalf of our caucus, be able to support that particular motion because, as I said during the discussion earlier today, we've not had an opportunity to discuss this with our caucus. Furthermore, although Ms. Mitchell has now identified the start time as February, I believe it would require some changes to the standing orders—the calendar—and we would obviously want to see what the revised calendar would look like for all of 2009 before we would be in any position to support that motion. So I believe that that particular recommendation should go to House leaders.

Mr. Peter Kormos: Chair, if I may? Look, we talked about this earlier, and it's one thing to say, "Let's consider the impact of a four/one, three/one on-off pattern," but to do that without looking at the whole calendar year and the impact on the calendar year is premature and risky. Here we go. We could have, had we worked on a consensus model, I think all agreed on entertaining this prospect in a more general and investigative context. But the nature of the motion is such that, by the very nature that it's a motion, it means there's no effort on the part of the government to reach a consensus. New Democrats will not be supporting the proposition in the context of this committee at this point, although, as I've already told you, we're sympathetic to a consideration of a four on/one off, three on/one off but we have to build it into the whole calendar.

Mrs. Carol Mitchell: Specifically, the questions raised in the morning were the time frames, and it speaks to that. Now, we do know that it will adjust the overall schedule, but as has certainly been raised by a number of members from our caucus, there's a great deal of support for moving towards more of a federal model, which would give the ability to members to have much more time in their constituencies. As well, it also starts to address the concerns of some of the questions raised by the staff and the ability to adjust their workload. That also assists in that respect as well. So I just bring forward those comments.

Mr. Peter Kormos: Aha. Now we know the government's real agenda: to adopt the federal model. We'll soon see another bill before the Legislature increasing Liberal backbench MPP salaries to the level of their federal counterparts. That, I find obscene.

The Chair (Mr. Bas Balkissoon): I have a motion. Ms. Mitchell moves that the legislative calendar, beginning in February, be adjusted to reflect four weeks on and one week off. All in favour? Against? That motion carries.

Mrs. Carol Mitchell: I move that deferred votes be scheduled immediately following question period and that petitions be scheduled for routine proceedings.

Mr. Peter Kormos: Look, this is a very reckless proposition. To occupy the time after question period with deferred votes will seriously impact on the post-question period scrum, the various media interviews that take place with both cabinet ministers and opposition members. It will interfere with the electronic recording, both video and audio, in terms of bells ringing and people darting in and out to attend to the votes. And after all of the concern that I heard on the brief hours from so many people about lunch periods and the need to have—if you look around this committee room, you'll note that most of us could do without some lunch periods, rather than ensure that we get to them.

Mr. Lou Rinaldi: True. I agree with you on that.

Mr. Peter Kormos: I expected more of your colleagues to join in with me on that, but they're shrinking violets—if only they were shrinking. For those who are concerned about lunches—and as I said, we should be

less concerned—this will eat into that very important part of media coverage, post-question period, and the New Democrats find this a reckless proposition.

Mr. Norm Miller: I would just like to get on the record that I think that the proposal put forward by the PC caucus, which was to start question period at 1 o'clock every day and to have deferred votes as part of a new, reunified routine proceedings, makes a lot more sense than the suggestion put forward by the government to move deferred votes to after a morning question period. That, I think, was reflected in what this committee heard from media representatives, in particular, those who came before the committee.

Mr. Khalil Ramal: We heard the media when they came and presented to the committee and they showed some kind of comfort with the frame time, whether in the morning or afternoon, but they said that they needed enough time to question ministers after question period. I think the committee listened to them and gave them the time they requested in order to be open to the media and to answer the media.

Mrs. Elizabeth Witmer: I guess, with all due respect, I would disagree. To actually put deferred votes after question period decreases the access that the media would have, not just to cabinet ministers, the Premier and members, because members would be forced to go back into the House for votes, so it makes them less available than they currently are today. I'm surprised that the government would have suggested this.

Mr. Peter Kormos: I should have been more complete when I talked about who it impacts. It impacts on access to cabinet ministers, access to opposition members and, of course, government backbenchers, because they preen and prepare with a rather unexhausted optimism, wanting to be interviewed by the Toronto media.

What if Shafiq Qaadri wants an opportunity to talk about his world-renowned medical practice? Rather, he'd be forced back into the House for a recorded vote. He would lose the opportunity to add to his already thousands—as one reads his website—of media appearances. I would be loath to deprive your colleague, Shafiq Qaadri, of that opportunity to add to his resumé yet one more international media clip.

Mrs. Carol Mitchell: I just have the motion that I'm putting forward, and I'm just changing a word here, just for point clarification.

I move that deferred votes be scheduled immediately following question period and that petitions be scheduled during routine proceedings. I just want to clarify that.

Mr. Peter Kormos: That's how I understood the original motion. I don't see any need for an amendment. If you want to, we'll support your amendment. If you really want to.

Mrs. Carol Mitchell: I was taking it under advisement. The intent was to clarify and that that be a part of routine proceedings. That's why I bring forward the word "during."

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Just in reference to the deferred votes immediately following question period, it gives members the ability to

better schedule their time, as well. When we talk about having the time directly linked to question period, it also gives members the ability to come out in greater numbers because of the time frame.

Also, with regard to accessibility of ministers, it is our understanding that the ministers will still have ample time, as it's not every day that we have deferred votes. This adjustment that we are making is reflective of the concerns that were raised by the media, specifically about deferred votes. So I just—

Mr. Norm Miller: I'd like to make an amendment to the motion.

I move that deferred votes be scheduled immediately following the 1 p.m. question period and that petitions be scheduled during routine proceedings.

The Chair (Mr. Bas Balkissoon): I have a motion and an amendment. I'll read the motion and then the amendment.

Mrs. Mitchell moves that deferred votes be scheduled immediately following question period and that petitions be scheduled during routine proceedings.

I have an amendment by Mr. Miller that the motion read "that deferred votes be scheduled immediately following the 1 p.m. question period and that petitions be scheduled during routine proceedings." So I'll take the amendment to insert the words "the 1 p.m." before "question period" in the main motion.

Mr. Kormos.

Mr. Peter Kormos: I understand what my dear colleague is trying to do, and I support him in his intention, but I will be calling for a recorded vote on this amendment and indeed abstaining, because although I endorse a 1 o'clock or 1:15 or 12:55 question period, the argument is that it is flawed to have deferred votes immediately after question period. The press gallery is leaving the chamber and setting up 15 minutes into question period, 10 minutes before the conclusion. The press gallery will, here in the instance of deferred votes, be deprived of access to members leaving the chamber after question period, dealing with question period issues, as well as the deferred vote, in any event. Do you understand what I'm saying? The media want to be in there. My colleague Mr. Miller has made his point. I would exhort him to perhaps consider withdrawing his motion, only because of my discomfort; he may feel perfectly comfortable with it. I respect his intentions in this regard.

The Chair (Mr. Bas Balkissoon): I'll call the vote on the amendment by Mr. Miller.

Mr. Peter Kormos: Recorded vote.

The Chair (Mr. Bas Balkissoon): It's a recorded vote, and it's to insert the words "the 1 p.m." just before "question period" in the main motion.

Ayes

Miller, Witmer.

Nays

Mitchell, Ramal, Rinaldi, Van Bommel.

The Chair (Mr. Bas Balkissoon): The motion does not carry.

I'll call the vote on the motion, as moved by Mrs. Mitchell, that deferred votes be scheduled immediately following question period and that petitions be scheduled during routine proceedings. Recorded vote.

Ayes

Mitchell, Ramal, Rinaldi, Van Bommel.

Nays

Kormos, Miller, Witmer.

The Chair (Mr. Bas Balkissoon): The motion carries. Mrs. Witmer.

Mrs. Elizabeth Witmer: Actually, that particular change probably works best for cabinet ministers, who now can go and make announcements and travel throughout the province at 12 o'clock because they're free for the rest of the day.

Mr. Peter Kormos: Mrs. Witmer, it's even more dramatic than that: This will provide the perfect access to that cowards' alley from the government members' lounge down to the east end of the building, the cowards' alley when cabinet ministers want to avoid the media so they scurry with their tails dragging behind them down cowards' alley to the refuge of the east end of the chamber and avoid any exposure to the press.

The Chair (Mr. Bas Balkissoon): Mrs. Mitchell?

Mrs. Carol Mitchell: I move that the House commence sitting each Monday morning at 10:30 a.m., followed by 9:00 a.m. on Tuesday, Wednesday and Thursday morning.

Additionally, the House should consider reviewing the use of e-petitions.

The Chair (Mr. Bas Balkissoon): Any discussion?

Mr. Peter Kormos: The House can sit any time it wants, and New Democrats and I will be here, and we have been. I have no quarrel with the House starting at 10:30; I have no quarrel with reviewing the use of e-petitions and looking at the ramifications.

You know the issue. I'm pleased that the motion reads as it is because it's one that I can support. I think a better compromise would have been 10 o'clock, because, really, you're allowing a little bit of time for people to get in on Monday mornings and we're going to have debate on Monday mornings. Let's start at 10.

I move an amendment that "10:30" be changed so that it reads "10 a.m." If we're going to work, let's get to work.

Mrs. Carol Mitchell: Just a short comment: This was a concern that we heard from out-of-town members, that it was difficult to come so early in the morning on Monday. Also, we heard it from a technology point of view, that it was difficult to ensure that the House would be up and running without the ability to have that time frame.

Certainly we heard the concerns on the e-petitions. It's something that we feel does reflect today's technology. We should move forward with it, but we've heard the concerns that it needs further review, and we are prepared to support that.

Mrs. Elizabeth Witmer: If I recall, the technology people seemed to indicate that if there were problems, they probably would need the Monday morning to make the changes that were necessary.

I take a look at the schedule that the Progressive Conservative caucus put forward, and there has been no attempt on the part of the government to even accept one of our recommendations. Here is one—based on the fact that because the House kept adjourning early, either in the morning or the afternoon, they didn't need almost 34 hours—where they could have moved to a start time on Monday of either 12 o'clock or 1 o'clock. Certainly we could have started later. I'm very disappointed that they really didn't listen to the technology people, and they certainly haven't listened to any one of the recommendations that we made.

It's disappointing. I sit here and I think to myself, "Why did we go through this charade?" The government pretended the changes were going to reflect some sort of consensus and change to the question period time, and at the end of the day, we're talking about issues, such as e-petitions, which have come out of the blue and I don't think are going to have a significant impact on what happens here. In fact, I think that had better be given some serious consideration because it allows people to be anonymous, and I'm not sure that really is in the best interests of democracy. I'm just very disappointed. We're going to vote against this. Again, the government could have compromised and accepted our 1 o'clock start time on Monday.

1130

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: Thank you, Chair. Help me. I've made an amendment to change this to 10 a.m. Let's look at what this government's schedule has done. It's created Thursday afternoon, three hours, as a day where the government will only have bare-bones attendance; right? It's pushed private members' public business into there to the point where government private members' bills will risk being defeated should the opposition wish to do that.

Jeez! Workdays? I don't know. Down where I come from, working women and men start their workdays at 6:30 and 7 a.m., and raise families. Whose interest is this in? It's obvious that this is designed to ensure that there's still a question period at 10:30.

This is the dilemma that the government caucus members found themselves in: They would have dearly loved to have eliminated Monday mornings because this is problematic. I'm here Monday mornings; I live in Welland, 135 kilometres away. It's as problematic for government members as it is for opposition members, deciding whether to come in Sunday evening and leave your riding at 5 or 6 o'clock.

Last night I was at the Feast of the Assumption down at St. Mary's Church in Welland. We had to wait for the rain to end, and then we did the parade with the Madonna around—

Mr. Lou Rinaldi: Processions.

Mr. Peter Kormos: You can call them what you want to where you come from, Mr. Rinaldi. We paraded that Madonna through the streets of Welland, let me tell you, on the shoulders of hard-working parishioners of St. Mary's Church. As it was, I came into Toronto late last night—I'd rather not—but for some folks who are a little further away, it would mean missing the Feast of the Assumption. Who would want that? It's one of the bulwarks of Catholic Christian faith.

The government really wanted to eliminate Monday morning, but then they went, "Oops, that means we'd have to put question period at 12:55 or 1. Oh nuts!" they said. I'm sure the language in the Premier's office could've been even more eloquent. "I guess we can't do it after all. We'll cut this little bit of slack." This just illustrates how silly this whole exercise is.

But you know what? Government committee members have to understand that, all of the best-made plans of mice and men often going astray, none of this has got anything to do with the one-hour time frame that the government intends to use to make the provisional orders permanent. None of these are going to be introduced because if they do, of course, there goes the one-hour time allocation, doesn't it? As I say, once again—a little bit of pseudo-intellectual onanism—an opportunity for government members, nothing more, nothing less.

The Chair (Mr. Bas Balkissoon): I have a motion moved by Mrs. Mitchell, amended by Mr. Kormos. The motion reads: "I move that House commence sitting each Monday morning at 10:30 a.m. followed by 9 a.m. on Tuesday, Wednesday and Thursday morning."

"Additionally, the House should consider reviewing the use of e-petitions."

The amendment by Mr. Kormos is to delete "10:30" and insert "10 a.m." All in favour of the amendment? Against? That motion carries. Sorry, it's defeated.

The motion reads: "I move that House commence sitting each Monday morning at 10:30 a.m. followed by 9 a.m. on Tuesday, Wednesday and Thursday morning."

"Additionally, the House should consider reviewing the use of e-petitions."

All in favour? Against? The motion carries.

Any more motions? Discussion? Mrs. Mitchell.

Mrs. Carol Mitchell: I move that introduction of guests occur twice per day—once in the morning and once in the afternoon with a duration of five minutes each time, and the introduction of the guests be done by the members.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: I think the reason we went to having the Speaker introduce guests in the last session was because things were just getting too carried away, with every single person attending the Legislature being introduced by the members. It makes more efficient use

of the time and makes it so there's no partisan nature to the introductions whatsoever. So I support maintaining having the Speaker do the introductions of guests.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: Mr. Miller, you're being much too harsh. You know full well that for many government backbenchers, the only opportunity they have to stand and speak in that chamber is when they're introducing Aunt Myrtle and Uncle Bob from whichever part of Ontario they happen to be coming. This is a self-aggrandizing exercise. It allows folks from back home to perceive their member as being a somebody, that they can actually stand up and introduce in the House, when that's all they've done in the chamber that week or that month. Do you dispute that, Mr. Miller? Because if I'm wrong, you say so; you refute that right here and now. You're being far too harsh on government members. This is it for them: They've got a collection of Hansards that consists of introductions of Aunt Myrtle and Uncle Bob, and far be it from me to begrudge them that. I just think it's far more professional when the Speaker does it.

Also, be careful, my friends, because if you have a five-minute limit on it and you don't have the Speaker doing it, there will be opportunities to hold those five minutes hostage, won't there? Some of you may not get your guests introduced at all, because the five minutes will be up and cantankerous opposition members who have lost all interest in being collegial or civil will be saying, "On a point of order, Speaker, the five minutes are up," and the Speaker will say, "Sorry, Mrs. Mitchell. I don't know who your guest is today"—it could be the reeve, it could be the mayor, it could be the pastor from your local church—"but you're not going to be allowed to introduce him or her." It's fraught with flaws, but this is what happens when people don't reflect on things.

The Chair (Mr. Bas Balkissoon): Mrs. Mitchell.

Mrs. Carol Mitchell: I do thank the members for their comments, but certainly I have heard from a number of members who want the ability to stand up and introduce their guests. They understand that their guests are a very important part of the process. Specifically, if someone makes the very long trip from my area to come into Toronto, you want to have the allocation of time given to introduce them so that they feel they are a part of the process as well and in recognition of their attendance. So anything that we can do to engage the people of Ontario in the process at the Legislature I feel is important and part of the role of the members.

Mr. Peter Kormos: Let's engage the public of Ontario: Let's have question period at 1 o'clock so that the public of Ontario can watch it on their televisions after they've finished doing their daily chores around the house and so that the public of Ontario can travel to Toronto from places like Ottawa. We worry, "Oh, members can't get here before 10:30 on Monday." What about that busload of school kids from Yakabuski's riding, up in Renfrew? They can't get here by 10:30 either. So if Mrs. Mitchell wants to make this place more public-friendly, let's have question period at 1 o'clock.

But I don't begrudge Mrs. Mitchell standing up and introducing folks; I've already indicated that. I don't begrudge her that at all. I understand—Aunt Myrtle and Uncle Bob.

1140

The Chair (Mr. Bas Balkissoon): Mr. Ramal.

Mr. Khalil Ramal: I guess many members spoke about this point, because most of the time the Speaker stands up and introduces people without their being present in the House, and also he sometimes introduces them after their departure. That's why I want to make this one here attach the name with the presence of the people. That's very important.

The Chair (Mr. Bas Balkissoon): I'll call a vote.

Mr. Peter Kormos: Recorded vote.

The Chair (Mr. Bas Balkissoon): I have a motion by Mrs. Mitchell: "I move that introduction of guests occur twice per day—once in the morning and once in the afternoon with a duration of five minutes each time, and the introduction of the guests be done by the members."

A recorded vote.

Ayes

Mitchell, Ramal, Rinaldi, Van Bommel.

Nays

Kormos, Miller, Witmer.

The Chair (Mr. Bas Balkissoon): That motion carries. Ms. Mitchell?

Mrs. Carol Mitchell: I move that private members' business be conducted on Thursday afternoon with three private members' bills or resolutions debated each day. Further, that bills can be sponsored by more than one member and by members of different parties.

Just to add comment to this, Mr. Chair, this is something reviewed by the previous committee. It was something that was talked about. Anything that we can do to promote working together in the House, we feel, is very important. Also, we recognize that there is more work to do on private members' bills and how they move forward. We do recognize that there is much more work to do, but we feel that this is a very important first step.

The Chair (Mr. Bas Balkissoon): Comments? Ms. Witmer?

Mrs. Elizabeth Witmer: With all due respect, this is rather amusing: everybody working together. I'm not sure to what end. We've sat here now for three days, and there doesn't seem to be any willingness to accept any of the recommended changes to the standing orders that have been proposed by the two opposition parties.

I think the big issue with private members' business, whether you have two private members' bills introduced or whether you have three or four or five—at the end of the day, it's what happens with private members' bills. As I say, right now, they usually go into a big black hole.

I think there should be an obligation on the part of the Legislature to review what happens, and we need to take a look at models in other provinces. For example, in Alberta, bills go through committee and then they automatically go to a vote in the House, and that allows for some closure. I think this whole thing about co-sponsorship is meaningless. It's what happens with the bills that is significant. The process we have at the present time is totally inadequate and doesn't reflect that these bills are really all that important. I think we should be looking at other models so that we can bring closure to private members' bills—pass them or reject them.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: The mover of this motion either misreads or misstates what, in fact, the 2001-02 Marland Legislative Assembly committee concluded, because although they recommended co-sponsorship, they also stated that "the committee is of the view that further thought will have to be given to the precise features and consequences of co-sponsorship."

I've already indicated that the face of the bill never appears in Hansard; the author of the bill, the patron, the sponsor of the bill never appears in Hansard. There are options. One is to permit up to two seconders. That will appear in Hansard:

"Speaker, I move second reading of this bill."

Then, consecutively:

"Speaker: Yes, the member for ABC."

"I second the motion for second reading of this bill."

Then you've got a Hansard. It's an option, and I'm not recommending that necessarily, but then you have a Hansard.

Look, at the end of the day, do I care? Probably not, although I'm worried about the possible implications and also the implications about sharing the time slots by movers, as you know, of bills in private members' public business, because it implies that—first of all, she doesn't have a restriction. The committee, when it first considered it, talked about three. It implies that 20 people could co-sponsor a bill and then share the limited time slot, which is sort of *reductio ad absurdum* at that point; ain't it, Chair?

Look. Let's understand what private members' public business is, for the largest part. There are some good, substantive bills put forward. John O'Toole's bill on cellphone use, which was dismissed and, dare I say it, pooh-poohed by the Premier when it came forward, has now become a government initiative. There's some substantive stuff.

You use private members' for any number of things. You use it to introduce fluff bills. You know, those saccharine bills, the cotton-candy bills; declaring July 3 Don't Worry, Be Happy Day. And of course, the ethnic days. We've got calendars that overlap now, celebrating any number of ethnic communities. My poor Carpatho-Russian community is still being denied their Carpatho-Russian Day in Ontario.

Then you've got bills that are designed and guaranteed to pass. Of course, this is all about ego bills, where you

introduce a motherhood resolution or bill like, "Be it resolved that this Legislature condemns poverty." Well, of course everybody condemns poverty. Those are the one-hit wonders in the local press; right? Of course, you don't intend for them to get third reading.

Let's understand that a private member's bill is only a private member's bill until it's resolved and discharged. As a matter of fact, it ceases to become a private member's bill once you're finished your private members' public business hour, even if it does pass. It's no longer a private member's bill, then. The government controls its passage. As a matter of fact, the Speaker of this assembly has ruled that private members' bills are government bills once they're discharged from committee and sent back to the House, because only the government can call them for third reading.

So Mrs. Witmer is quite right. A far more interesting consideration would be the status of private members' bills, their survival rate—I'm not even talking about their success rate. Private members' bills have the lifespan of baby seals on a good seal-hunting day. The government clubs them to death on a regular basis, or simply projectiles them into legislative orbit. Stephen Hawking knows more about private members' bills, because of his intimacy with black holes, than most private members ever do.

Look. Do I care? At the end of the day, big deal. Who am I to begrudge a couple of government backbenchers their day in the local press? If they want to stand up and co-sponsor, good for them. I think there are better ways of doing it and I think the consideration of seconders is a better way. We're not worried about the American style that's being imported here, but at the end of the day, big deal, because it means so little.

The interest, as expressed by the 2001-02 Marland-chaired Legislative Assembly committee, was to foster co-operation among members. The government could have fostered some co-operation among members by having adopted a consensus model for the determinations today. We indicated from the get-go—we did, Chair. Both opposition caucuses here indicated from the get-go that there were any number of things—in fact, the majority of the government's wish list—around which we could reach a consensus. The government had no interest in doing that. Foster co-operation? Bull feathers. The government wants to use the language and cotton-candy the approach and, regrettably, abuse its backbenchers in the process.

I'm not overly offended by this. I just think it's silly, but it's no more or no less silly than a whole lot of stuff that goes on around here, is it? Found any silly stuff since you've been elected here, Chair? Don't smile, sir. It displays a response. But I appreciate it.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: Yes, just on this point. There's so much more that can be done on private members' business, particularly in terms of moving bills to committee, to get public hearings, to getting more of them that actually come to a vote. Other jurisdictions do have

closure processes that bring about more closure and more opportunity to vote on bills. I really see this motion as fluff, basically.

1150

Even if you look back at the report that was done on enhancing the role of members—that was done in 2002—they have eight recommendations, a number of which, it seemed to me, could stand more investigation, including number 4:

“The committee recommends that bills should be referred to committees in a consistent fashion in order to allow private members to develop expertise in a committee’s field of expertise.”

And number 7:

“Notwithstanding the current practice, the committee recommends that a private member’s public bill that is supported by at least 75% of the membership of the House ... should be entitled to be fast-tracked for early consideration of, and voting on, all post-second reading stages of the legislative process.”

I just think that there’s so much more that we can do on private members, and that if we were going to make a recommendation, at the very least, it should be that we study further possibilities to deal more completely with private members’ bills.

Mr. Peter Kormos: I think that what Mr. Miller was saying was that belly button lint has more substance than this particular motion, but—

Mrs. Elizabeth Witmer: Call the question.

The Chair (Mr. Bas Balkissoon): Mrs. Witmer has called the question. I have one motion by Mrs. Mitchell, who moved that private members’ business be conducted on Thursday afternoon, with three private members’ bills or resolutions debated each day. Further, that bills can be sponsored by more than one member and by members of different parties.

All in favour? Against? That motion carries.

The Chair (Mr. Bas Balkissoon): Ms. Mitchell?

Mrs. Carol Mitchell: I move that question period be scheduled at 10:30 a.m. on Monday, Tuesday, Wednesday and Thursday, and routine proceedings at 1 p.m. on Monday and Thursday and 3 p.m. on Tuesday and Wednesday.

Mr. Peter Kormos: It is my view that question period is the property, to a great extent, of the opposition. It’s the opposition’s time. Orders of the day is the government’s time. That’s when the government calls the business. Government decides what bills are going to be debated and, especially in a majority government, which bills are simply going to pass.

The opposition has ownership of question period. It was only relatively recently that in the course of compromise, private members had access to question period for private members from the government benches.

The government has been unmoving on the issue of timing. They were not consultative from the get-go. We could have resolved this. I spoke with the government House leader, saying, “Look, what’s the government’s agenda with this silly little Legislative Assembly com-

mittee? You know, for us, the opposition, we’re prepared to live with all your other stuff. We know what you intend by it and what your goal is, but we really, strongly believe”—and then the government’s response is, “Well, it’s an arbitrary time. Why 10:30? Why 10:45?” Well, okay, but if it’s arbitrary, why not 1:00? Amongst other things, it would resolve those huge, wacky gaps in the middle of Tuesdays and Wednesdays. I believe that it would make question period more accessible to the general public. I believe this. I personally do. Many of us agree with me; some don’t.

I value question period. I find it an incredibly important—perhaps the single most important part of our process. It’s a thing that Americans envy. You know that, don’t you? Americans envy it. US-style republican systems envy question period. When we have guests from totalitarian China and they watch question period—we see them up there, on the junkets from China, from totalitarian countries—they’re just about ready to swallow their bubble gum when they see the opposition going after the government.

Interjection.

Mr. Peter Kormos: Come on, Mr. Ramal. They’ve never seen anything like it, because where they come from, you go to jail or worse if you criticize governments, never mind in some sort of official theatre or venue like the Parliament or the Congress or the Senate. It’s an incredibly important thing.

I’ve often believed that nobody should be able to serve in government until they’ve served in opposition. I really do, because it helps people in government understand the very, very important role opposition plays. Opposition’s most pointed role is during question period. Good opposition makes for better government; I really believe that, too. The worst governments occur when you’ve got sloppy, disinterested or restrained oppositions.

I reject this. I regret that the government members on this committee did not see their way clear to proceed here by way of consensus where we could have made joint submissions on any number of issues.

The government insists that it doesn’t have an agenda, doesn’t it? You’ve heard the Premier say that, Chair. You’ve heard the government House leader. There’s no agenda on the part of the government in moving question period into the morning. Well, then, why move it? Because it hasn’t made for a cleaner sitting day. We all know that. There is an agenda here.

I reject this. As I say, this is symbolic of the phoniness of this whole process here in this Legislative Assembly committee. Thank you, Chair.

Mrs. Elizabeth Witmer: Call the question.

The Chair (Mr. Bas Balkissoon): Mrs. Witmer has called the question.

Mr. Peter Kormos: A recorded vote, please, if indeed the Chair should deem it timely to call the question.

The Chair (Mr. Bas Balkissoon): I have one motion by Ms. Mitchell. Ms. Mitchell moves that question period be scheduled at 10:30 a.m. on Monday, Tuesday, Wednesday and Thursday, and that routine proceedings be at

1 p.m. on Monday and Thursday and 3 p.m. on Tuesday and Wednesday.

A recorded vote.

Ayes

Mitchell, Ramal, Rinaldi, Van Bommel.

Nays

Kormos, Miller, Witmer.

The Chair (Mr. Bas Balkissoon): The motion carries. Ms. Mitchell.

Mrs. Carol Mitchell: I have no more motions to bring forward.

The Chair (Mr. Bas Balkissoon): No more motions? Ms. Witmer.

Mrs. Elizabeth Witmer: Mr. Chair, I want to advise the committee that the Progressive Conservative caucus will be submitting a dissenting opinion that we would like to add to the report. We are very, very disappointed at the recommendations that have been brought forward by the government. Many of these changes are totally out of the blue; there hasn't been an opportunity for discussion amongst the House leaders or with our caucuses. I think it certainly indicates that the government is trying to focus attention away from the key issue of concern, which is the timing of question period. It's disappointing. So we would like to submit our dissenting opinion in September and add it to the report.

The Chair (Mr. Bas Balkissoon): Mr. Rinaldi, did you—

Mr. Lou Rinaldi: No.

The Chair (Mr. Bas Balkissoon): Okay. I just heard you call my name. Mr. Kormos.

Mr. Peter Kormos: I, on behalf of the NDP, pursuant to standing order 130, in particular paragraph (c), wish to put notice that we dissent on a number of the recommendations that were imposed on this committee by the majority vote of the Liberal members.

However, it remains that staff now is confronted with a series of motions. Staff, in preparing its report, may decide to simply say, "The committee passed the following recommendations," and list them and treat it as barebones as that, as succinctly as that. It's conceivable that staff may choose a more narrative style of report writing. The process, again, is reasonably flexible in these committees. I submit that the opposition is entitled to see a draft report before it is required to submit dissenting reports or even make that choice. So I'm putting you on notice, as Mrs. Witmer did, that there will be dissent, but for us to write that dissent without seeing the draft would be putting the cart before the horse. I further submit that we have to have a subcommittee meeting where staff might be present so that we can help in determining the time frame that staff needs to prepare that draft report. That's the process that I submit is appropriate. Once we

see that draft report, then formal notice of our intention to file dissent should be registered.

Look, it's highly unlikely, but it's entirely conceivable, that the researchers would prepare a report that there's no need for this member to dissent from. Notwithstanding what's passed here, it may end up being government members who say, "Whoa, we don't accept this report." So that's what I'm suggesting to you. I say that now is not the time for the Chair to set a time frame for the submission of dissenting reports.

1200

The Chair (Mr. Bas Balkissoon): I guess the question remains, then: Does the committee want to give the procedural clerk in research direction on writing that committee report, and do you want to set a procedure or a date for your dissenting report, and does the committee want to have that subcommittee meeting and a follow-up meeting for the complete review of the draft report from the procedural clerk?

Mr. Peter Kormos: I think the committee has done what it's done, and there we are. The inference to be drawn is that the government members intended for this series of motions to be the direction to the research. I don't agree, but that's the majority decision here. Now it's for us to receive a draft report, and I say, until we've seen a draft report, it's premature for the opposition to be called upon to submit to a deadline for submitting dissenting reports.

Mrs. Carol Mitchell: I concur. We can agree, as a subcommittee, on what those days are, going forward, once we have a date. But I would concur with both of your comments—not that I concur that you should write the report; I concur about the time frames.

The Chair (Mr. Bas Balkissoon): So am I hearing that everyone agrees that we should just have a subcommittee meeting to determine some dates, after you see the draft report?

Mrs. Carol Mitchell: Yes.

The Chair (Mr. Bas Balkissoon): When can we expect the draft report?

Mr. Peter Sibenik: Probably in about two weeks, if that's okay with the committee.

Mrs. Elizabeth Witmer: And that would be August 25.

The Chair (Mr. Bas Balkissoon): It would be August 25.

Mr. Peter Sibenik: I do have some further questions, however, for the committee, based on these recommendations.

The third motion dealing with deferred votes being scheduled following question period and that petitions be scheduled during routine proceedings: Does the committee have any specific instruction as to when during routine proceedings the petitions should be held—or just leave it as is?

Mr. Peter Kormos: With respect, the author of the motion had the opportunity to do that and declined to, and I submit, appropriately, because these are about recommendations. It's clear from the motion, on its face, that the mover did not wish to specify a particular time.

That's my response to the question on the part of the research officer.

The Chair (Mr. Bas Balkissoon): Mrs. Mitchell, do you have a comment?

Mrs. Carol Mitchell: Just that the intent for petitions would be that it would be at the end, but clearly it did not say that in the motion; it said that it would be a part of routine proceedings. So I guess we would look at normal practice.

Mr. Peter Kormos: We've got to live with what we've got.

Mrs. Carol Mitchell: I concur, but I'm just saying normal practice based on where it was in the past. But—

Mr. Peter Kormos: Well, normal practice—I agree with Mrs. Mitchell that the report of the researcher should reflect normal practice in the Legislature, which of course would include question period at 1 o'clock.

Mrs. Carol Mitchell: Which would also include specifically the motion where it says it be part of routine proceedings; it did not specify a time. And then I'm just saying based on past practice.

Mr. Peter Sibenik: Thank you. I have another question dealing with the introduction of guests twice a day, once in the morning and once in the afternoon. What happens to the existing procedure in the standing orders dealing with the introduction of guests, the Speaker doing that? What happens to that, if anything?

Mr. Peter Kormos: It's clear the committee has been silent on that matter.

Mrs. Carol Mitchell: The intent—

Mr. Peter Kormos: I know it was voted on.

Mrs. Carol Mitchell: And specifically that's what was voted on. The intent was to give an opportunity for members to introduce guests twice in a day, that being in the morning and in the afternoon, and a time allocation of five minutes be given to each of those. That's what the motion specifically said, and that the members be given that opportunity.

Mr. Peter Kormos: Mrs. Mitchell is quite right. The committee was silent as to whether or not that displaces the Speaker's introduction of visitors.

The Chair (Mr. Bas Balkissoon): I guess it's a combination of both.

Mrs. Carol Mitchell: What the motion specifically said was that the members be given the opportunity for five minutes in the morning and five minutes in the afternoon within the allocated time, and that's specifically what it spoke to. The process that came forward in the past few months that we were here was that it was clearly written from a member, it would go forward to the Speaker, and he would also introduce—he or she would also introduce; he right now—people who were sitting in his gallery as well. But the motion specifically said an allocation of time, five and five, and that it be members.

Mr. Peter Sibenik: Thank you.

Mr. Peter Kormos: Once again, I want to reiterate: I've been report writing in committees for a couple of years now, and there are any number of ways to do it. The more collaborative way is to go through a series of exchanges with the research staff here, and the research

staff gleans from that general perspectives. The government chose to do this by a series of motions letting the majority rule. The government chose that process; we offered up a consensus process, a process of discussion and hopefully some give and take. The government specifically declined to accept that; in fact, went further and voted against that.

I submit, then, that the researcher lives with the wording of the motion and quite frankly nothing more, nothing less. The researcher cannot draw inferences that are not available to him. I submit that as our position on this matter, and I regret it.

The Chair (Mr. Bas Balkissoon): Okay. So the draft report will be prepared for the 25th. The subcommittee meeting—would you like to agree on a date?

Mr. Peter Kormos: I don't have an agenda here.

Mrs. Elizabeth Witmer: We can do a teleconference.

Mrs. Carol Mitchell: Yes, we can do a teleconference.

The Chair (Mr. Bas Balkissoon): Do you want to pick a date? Two days later? Three days later?

Mr. Peter Kormos: Chair, you and the clerk can arrange that once the draft report is available and distributed.

The Chair (Mr. Bas Balkissoon): Okay. So it will be left up to the Chair?

Mrs. Elizabeth Witmer: The 27th would be good.

The Chair (Mr. Bas Balkissoon): I have a suggestion of the 27th. By teleconference?

Mrs. Carol Mitchell: Yes, the 27th is good.

Mr. Peter Kormos: The 27th of August?

Mrs. Carol Mitchell: Yes. It's a Wednesday.

Mr. Peter Kormos: I'm not going to be in Toronto that day. I'll hope I'm in cellphone—

The Chair (Mr. Bas Balkissoon): The suggestion was by teleconference. Ten o'clock?

Mrs. Carol Mitchell: Sure.

The Chair (Mr. Bas Balkissoon): Okay. Subcommittee meeting, teleconference, 10 a.m., August 27.

Anything else? Mr. Rinaldi?

Mr. Lou Rinaldi: Mr. Chair, for clarification, after the subcommittee meeting, do we still have to vote to submit the report to the House?

The Chair (Mr. Bas Balkissoon): No. The subcommittee meeting, I'm assuming, would be to get the draft report and to agree on a committee meeting date to see the final report.

Mr. Lou Rinaldi: Okay.

The Chair (Mr. Bas Balkissoon): And it would allow the opposition members' comments about a dissenting report opinion, whether they chose to do that or not.

Mr. Peter Kormos: Mr. Chair, that's not done in subcommittee. That's done in open—

The Chair (Mr. Bas Balkissoon): No, it gives you the time, because you wanted to see the draft report first.

Mr. Lou Rinaldi: Then this committee will convene again?

The Chair (Mr. Bas Balkissoon): This committee will convene again on the report and the subcommittee will decide on a date on August 27. That's what—

Mr. Lou Rinaldi: Thank you.

Mr. Khalil Ramal: A teleconference.

The Chair (Mr. Bas Balkissoon): The subcommittee will meet by teleconference, but set a date for a com-

mittee meeting some time in the future before the House comes back. All agreed? Anything else? Meeting adjourned.

The committee adjourned at 1211.

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Standing Committee on the Legislative Assembly

Review of provisional
standing orders

Comité permanent de l'Assemblée législative

Révision du
Règlement provisoire

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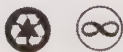
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 24 September 2008

Mercredi 24 septembre 2008

The committee met at 1306 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order. Can I have someone read the report of the subcommittee on committee business?

Mrs. Carol Mitchell: Your subcommittee on committee business met on Wednesday, August 27, 2008, to consider the method of proceeding on the review of the standing orders, and recommends the following:

(1) That the Chair of the committee send a letter to the government House leader requesting an extension on the tabling of the committee's report on the provisional standing orders until Thursday, October 2, 2008.

(2) That the full committee meet on Wednesday, September 24, 2008, to review, possibly amend and adopt the draft report.

(3) That dissenting opinions be submitted to the clerk of the committee by 5 p.m. on Wednesday, October 1, 2008.

The Chair (Mr. Bas Balkissoon): Shall the report of the subcommittee carry? Carried.

COMMITTEE BUSINESS

The Chair (Mr. Bas Balkissoon): Item number 2 is the draft committee report, pursuant to standing order 110(b). I think all of you should have a copy of it. Shall the report, pursuant to standing order 110(b), carry?

Mr. Peter Kormos: One moment. Chair, I would submit that there be opportunities for comment on the issue.

The Chair (Mr. Bas Balkissoon): No, we're dealing with this one about the ministries and the standing committees they report to. It's the first order of business on your agenda.

Mr. Peter Kormos: Okay, right here. My apologies.

The Chair (Mr. Bas Balkissoon): This is just technical.

Mr. Peter Kormos: Let's be clear: This is new business flowing as a result of the—

The Chair (Mr. Bas Balkissoon): We've got to get it done.

Mr. Peter Kormos: Well, no, we don't have to. The committee controls its own process. This reflects the new ministries that are created, including the rolling back of

the Ministry of Revenue, which was created not so much as a make-work project but as a make-minister project. That was rolled back so that it no longer exists, but that's okay because we haven't lost any ministers because we have a new ministry now, the frequent flyers' club that our dear colleague has been inducted into—not as if she didn't belong to it before. I understand. I suppose we have to, don't we?

Mr. Khalil Ramal: We want to attract people to Ontario.

Mr. Peter Kormos: Mr. Ramal makes a point. I suppose Ms. Pupatello can go to India again and export some more call centres from Ontario.

The Chair (Mr. Bas Balkissoon): Shall the report carry? The report carries.

Shall I present the report to the House? Agreed.

REVIEW OF PROVISIONAL
STANDING ORDERS

The Chair (Mr. Bas Balkissoon): The next item is the report-writing review of the provisional standing orders. We'll pass that around.

Before we deal with the report, there are a couple of comments from the procedural research clerk on clarification of the report that was just handed out.

Mr. Peter Sibenik: I have three cosmetic changes that I would recommend to the committee. If I could just briefly draw the attention of the committee to page 3, the second paragraph, beginning with "After advertising" At the end of that paragraph there's a reference there to September and square brackets. I would insert today's date where the square brackets are. If there are any further meetings, of course I would add those dates as well.

On page 4, the second bullet point, the reference to the letter: The letter actually was addressed not only to the other party leaders, it was addressed to the other House leaders. The author of the letter was not only the Premier but the government House leader. I would indicate as much if I would have the permission of the committee to make that particular change as well.

Mr. Khalil Ramal: Which point?

Mrs. Carol Mitchell: Page 4.

Mr. Peter Kormos: If I may, Chair, I appreciate the work that's been put into actually writing this. The sentence, "The ensuing discussions among the House leaders

did not result in a consensus or agreement on standing order changes”—with respect, I would ask the research officer where the data came from with reference to ensuing discussions because—and the government may concede this point—I would be more than pleased for it to say that the House leaders did not reach a consensus or agreement on standing order changes. There’s a statement in here that there were ensuing discussions, and that, in my view, is not something that could be apparent to the research officer.

I’m not attacking—I’m just wondering why he would say “ensuing discussions,” because he wasn’t there. For all he knows, we might have sat there silently staring and glaring at each other. Quite frankly, there were moments where some people might have interpreted it that way.

Mrs. Elizabeth Witmer: Just following through on Peter’s point, I think it would be more appropriate, since nobody in this room other than Peter and myself were privy to what did happen or did not happen. For that to say simply the House leaders did not—there was no consensus or agreement on the standing order changes among the House leaders.

Mr. Peter Kormos: I would say that that’s an accurate statement. That’s apparent. That’s clear.

The Chair (Mr. Bas Balkissoon): Agreed?

Mrs. Carol Mitchell: Agreed.

Mr. Peter Sibenik: Thank you. We’ll make that change.

Mr. Peter Kormos: Thank you kindly, sir.

The Chair (Mr. Bas Balkissoon): Any further questions, comments?

Mr. Peter Sibenik: There’s only one more and that would be on page 10, the very first line, “The committee is of the view that that....” I would eliminate one of those “that”s.

Mr. Peter Kormos: Well, to be fair, it has a Gertrude Stein quality to it. I don’t know whether it was poetic licence or a mistype. The research officer wants to delete the second “that.” I’m prepared to agree, notwithstanding my affection for Stein-esque prose.

The Chair (Mr. Bas Balkissoon): Agreed?

Mrs. Carol Mitchell: What is the amendment?

The Chair (Mr. Bas Balkissoon): Just to delete the first “that” on page 10.

Mrs. Carol Mitchell: I still didn’t hear it.

The Chair (Mr. Bas Balkissoon): Page 10, first sentence.

Mrs. Carol Mitchell: Yes, I heard that.

The Chair (Mr. Bas Balkissoon): Delete one “that.”

Mrs. Carol Mitchell: Okay. Agreed.

Mr. Peter Sibenik: That was it.

The Chair (Mr. Bas Balkissoon): That’s it? Okay. Questions or comments? Shall the report be adopted?

Mr. Peter Kormos: One moment, sir, before you put the question. You’re now dealing with the report in its entirety as presented to the committee. Is that correct?

The Chair (Mr. Bas Balkissoon): Yes, with the agreed-upon amendments.

Mrs. Carol Mitchell: With agreed amendments, the three amendments.

The Chair (Mr. Bas Balkissoon): Yes.

Mr. Peter Kormos: Chair, if I may—and I’m not going to be lengthy. I don’t feel particularly gratified about the process that we’ve undertaken here in this committee. But I do want to commend and thank the research officer, the clerk and the Hansard staff for their assistance during the course of this. In my comments about the process and about the product, there’s no criticism whatsoever of those personnel.

I found this very ungratifying. The NDP caucus hasn’t been particularly pleased. We believed that there would be a bona fide effort to discuss and deal in a tripartite way with concerns about the so-called provisional standing orders presented by the government. Of course, we were disappointed in the manner in which the government presented those provisional standing orders, because it was on a weekend. It was done by ambush. There was no discussion amongst House leaders. I believe that Mrs. Witmer, as Conservative House leader, and I, as NDP House leader, made strong efforts to engage the government House leader over the course of several weeks in meaningful and mature discussions about any number of ways that the standing orders could be altered to accommodate the government’s clear interest in expediting the passage of legislation and in avoiding evening sittings, but it was a very futile, indeed frustrating, exercise. It certainly was for me, and if I read Ms. Witmer’s body language correctly, it appears to have been as frustrating for her. So it’s regrettable.

The reference to the family-friendly committee—and that of course is accurate, because there was a motion before the House that created that committee. That family-friendly committee, as far as I know, still hasn’t met. Again, this being done under the guise of so-called family-friendly—I concede I don’t have a family, and I don’t have any domestic responsibilities in terms of responsibilities to a household, and I respect people who do. But at the same time, I suppose my passion is for a democracy-friendly set of standing orders, and process-friendly and meaningful-friendly.

So look, I do not, on behalf of the NDP, accept these recommendations. I reject these recommendations. In our last discussions here, we indicated there was room for some discussion around things like bell-ringing at the commencement of question period. That’s an inoffensive proposal. However, the reason we need it is because question period is at that wacky time in the morning of 10:45 and, if the committee had its way—the majority, at least—10:30 now.

But the thrust and substance of these recommendations New Democrats do not support. We will be asking for a recorded vote. We will be voting against the adoption of this. I anticipate, because I count with one hand the majority five government members here—there are no mavericks amongst them today—that the five will be voting in sync and consistent with the whipping they got, and fear of the whipping they will get should they not. So I’ll be voting against this and indicating now that

that the NDP will be submitting a dissenting opinion in the appropriate time frame as provided for in the report of the subcommittee. Thank you kindly.

The Chair (Mr. Bas Balkissoon): Ms. Witmer.

Mrs. Elizabeth Witmer: I would certainly concur with many of the comments that have been made by Mr. Kormos. I would like to express on behalf of the Progressive Conservative caucus our disappointment with the entire process as it relates to the changes to the standing orders, beginning with the original changes and how they were first shared with the media as opposed to with the House leaders, and the lack of opportunity presented to try to reach some consensus, some agreement on the changes.

We did have some high hopes that this committee over the course of its deliberations would have an opportunity to further discuss the changes that had been made on a trial basis. We've been very disappointed that not only was there really not an opportunity to consider those changes, kind of like the health tax, the government wasn't open to making some revisions, and at the end of the day, the only thing we all agreed to in here is that question period should be preceded by a five-minute bell.

The other recommendations—obviously, there was no agreement by either the NDP or ourselves. In fact, I was quite shocked that not only did we not discuss or debate the changes that were originally made to the standing orders, the government came in with further changes to the standing orders, which I really did think was most inappropriate. I believe that those changes should be discussed by House leaders, as opposed to—I don't know why they came in, but suddenly we're learning that the government is now going to go to a calendar starting in February with four weeks on and one week off. That came out of the blue. I would have thought that would have first been brought to the House leaders' attention for discussion, and we still haven't seen what that calendar would look like.

The other thing was that we're going to start to take a look at e-petitions. That came totally out of the blue as well. And not only were we going to introduce guests one, we're going to introduce them twice, and we're going to go back to the way that some people chose to do it before and have some very political introductions by MPPs. That was confirmed for me yesterday by the Speaker, who said he's tried to make them very neutral, and I think he's done an outstanding job.

Suddenly, this issue of co-sponsorship of bills was on the table. That's all well and dandy, but the problem with private members' bills is not who introduces them or how

many people are from different parties; it's what happens with the private members' bills, or the lack of action on private members' bills, that is problem.

I am disappointed with the process. I appreciate the work that staff did undertake, but based on this report, which only reflects the opinions of the government—as I say, we only agreed on one thing—we will be submitting a dissenting opinion and we will be voting against this report.

The Chair (Mr. Bas Balkissoon): Ms. Mitchell.

Mrs. Carol Mitchell: I too want to thank the staff for all of the hard work that has gone into getting the report to this stage. I also want to thank the NDP and the Conservative Party for the work you have brought forward, and I look forward to reading your dissenting reports. I know that all of us look at things differently in how we represent the people of Ontario, but what we are all consistent in is ensuring that the people of Ontario continue to move forward.

This is a report that our members have been looking forward to moving forward. With that being said, I would move that the report be accepted and reported to the House.

The Chair (Mr. Bas Balkissoon): Shall the draft report, as amended, be adopted?

Mr. Peter Kormos: Recorded vote, please.

Ayes

Broten, Mitchell, Ramal, Rinaldi, Van Bommel.

Nays

Kormos, Miller, Witmer.

The Chair (Mr. Bas Balkissoon): That carries.

Pursuant to the order of the House, shall I present the report to the House and move the adoption of its recommendations?

Mr. Peter Kormos: Recorded vote, please.

Ayes

Broten, Mitchell, Ramal, Rinaldi, Van Bommel.

Nays

Kormos, Miller, Witmer.

The Chair (Mr. Bas Balkissoon): That carries.

The committee is adjourned.

The committee adjourned at 1324.

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STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

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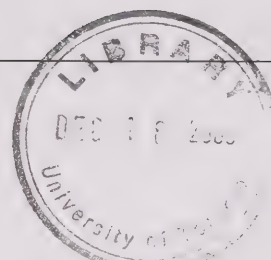
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Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Thursday 4 December 2008

**Standing Committee on
the Legislative Assembly**

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Jeudi 4 décembre 2008

**Comité permanent de
l'Assemblée législative**

Chair: Bas Balkissoon
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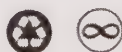
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Thursday 4 December 2008

Jeudi 4 décembre 2008

The committee met at 0915 in room 228.

The Chair (Mr. Bas Balkissoon): Good morning. We'll call the meeting to order. We're here as the Standing Committee on Legislative Assembly to deal with clause-by-clause consideration of Bill 37, An Act to amend the Child and Family Services Act to protect Ontario's children; Bill 98, An Act to promote the sale of Ontario grown agricultural food products by amending the Municipal Act, 2001 and the Public Transportation and Highway Improvement Act; and Bill 124, An Act to amend the Smoke-Free Ontario Act with respect to cigarillos.

Pursuant to the order of the House, the deadline for filing amendments to the bills with the clerk of the committee shall be 9 a.m. on December 4, 2008. At that time, those amendments to any of the bills which have not been moved shall be deemed to have been moved, and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of each of the bills in succession and any amendments thereto. The committee shall be authorized to meet until completion of clause-by-clause consideration of Bills 37, 98, and 124. No deferral of any division shall be permitted, and no waiting period pursuant to standing order 129(a) shall be allowed.

Members of committee, I have Bill 37 ready and I have Bill 124 ready. Bill 98 is on its way, so we may have to just change the order in case it doesn't show up on time. I'll start with Bill 37.

CHILD PORNOGRAPHY
REPORTING ACT, 2008LOI DE 2008 SUR LE DEVOIR
DE SIGNALER LES CAS
DE PORNOGRAPHIE JUVÉNILE

Consideration of Bill 37, An Act to amend the Child and Family Services Act to protect Ontario's children /
Projet de loi 37, Loi modifiant la Loi sur les services à l'enfance et à la famille afin de protéger les enfants de l'Ontario.

The Chair (Mr. Bas Balkissoon): The first motion is a government motion and it reads:

"Section 1 of the bill (Definition of 'child pornography' in subsection 3(1) of the Child and Family Services Act,

"I move that the definition of 'child pornography' in subsection 3(1) of the Child and Family Services Act, as set out in section 1 of the bill, be amended by striking out 'or' at the end of clause (a) and by adding the following clauses:

"(c) any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a child that would be an offence under the Criminal Code (Canada); or

"(d) any audio recording that has as its dominant characteristic, the description, presentation or representation, for a sexual purpose, of sexual activity with a child that would be an offence under the Criminal Code (Canada)."

This is Ms Broten's motion.

All in favour?

Interjection.

The Chair (Mr. Bas Balkissoon): That's why I read you the House order.

Interjection: Sorry, can you do that again—

The Chair (Mr. Bas Balkissoon): I got interrupted there. All in favour of that motion? Shall section 1, as amended, carry? Carried.

Shall section 2 of the bill carry? Carried.

0920

The next motion is Ms. Broten's motion again, and it reads:

"Section 3(2) of the bill, (subsection 72(1.3) of the Child and Family Services Act)".

Shall the motion carry? Carried.

The next amendment, again, Ms. Broten's motion:

"Subsection 3 (2) of the bill (subsection 72(1.4) of the Child and Family Services Act)".

Shall the motion carry? Carried.

The next motion again, Ms. Broten's motion:

"Subsubsection 3(3) of the bill (subsection 72(3) of the Child and Family Services Act)".

Shall the motion carry? Carried.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Shall Section 5 carry? Carried.

Shall Section 6 carry? Carried.

Shall Section 7 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 37, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

SIGNAGE TO PROMOTE ONTARIO
GROWN AGRICULTURAL FOOD
PRODUCTS ACT, 2008

LOI DE 2008 SUR L’AFFICHAGE
VISANT À PROMOUVOIR
LES PRODUITS AGROALIMENTAIRES
CULTIVÉS EN ONTARIO

Consideration of Bill 98, An Act to promote the sale of Ontario grown agricultural food products by amending the Municipal Act, 2001 and the Public Transportation and Highway Improvement Act / Projet de loi 98, Loi visant à promouvoir la vente de produits agroalimentaires cultivés en Ontario en modifiant la Loi de 2001 sur les municipalités et la Loi sur l’aménagement des voies publiques et des transports en commun.

The Chair (Mr. Bas Balkissoon): We’ll now deal with Bill 98.

Shall section 1 carry? I heard a couple of nos.

All those in favour of section 1? Against? Section 1 does not carry.

Shall section 2 carry? Again I heard a no.

All those in favour of section 2? Against? That does not carry.

The next motion is a government motion:

“Section 3 of the bill (section 34 of the Public Transportation and Highway Improvement Act)”.

Shall the amendment carry? Carried.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

The next motion is a government motion: “The short title of this act is the Signage to Promote Ontario Produced Agricultural Products Acts, 2008.”

Shall the amendment carry? Carried.

Shall section 5, as amended, carry? Carried.

Government motion:

The long title is, “An Act to promote the sale of Ontario produced agricultural products by amending the Public Transportation and Highway Improvement Act.”

Shall the amendment carry? Carried.

Shall the long title, as amended, carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

For the information of all of you, Ernie came in today and it’s his birthday, so this is his birthday present.

Mr. Ernie Hardeman: I would just point out that I think that’s the reason the government saw fit to call that bill back and have third reading today.

The Chair (Mr. Bas Balkissoon): So when we visit a farmer’s market on the side of the highway, we’ll remember Ernie’s birthday.

Mr. Ernie Hardeman: While we’re waiting for the clerk to pass it out, I just want to point out that I came here from Woodstock this morning for this committee meeting. I have to go back to Woodstock to a great big event with the Premier, because the Toyota plant opens today. Hopefully I will be here this afternoon to vote on this bill to make sure it passes.

I’m having a very eventful birthday. My wife gave me my birthday cake this morning at about 4:30 or 4:35. We’re packing it all in real tight.

The Chair (Mr. Bas Balkissoon): I hope you get a helicopter.

0930

SMOKE-FREE ONTARIO
AMENDMENT ACT (CIGARILLOS), 2008

LOI DE 2008 MODIFIANT LA LOI
FAVORISANT UN ONTARIO
SANS FUMÉE (CIGARILLOS)

The Chair (Mr. Bas Balkissoon): Does everybody have a copy of Bill 124?

The first motion we’re going to deal with is a government motion:

“Subsection 1(1) of the Smoke-Free Ontario Act is amended by adding the following definitions....”

Shall the amendment carry? Carried.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry?

The next motion is a government motion on section 3:

“The act is amended by adding the following section....”

Shall the amendment carry?

Shall section 3, as amended, carry?

Government motion:

“3.1(1) Subsection 15(1) of the act is amended by striking out ‘section 5 or 9’ and substituting ‘section 5, 6.1 or 9.’”

“(2) The table to section 15 of the act is amended by striking out ‘5’ in column 1 and substituting ‘5, 6.1.’”

Shall the motion carry?

M^{me} France Gélinas: Mr. Chair, I think you just made a small mistake. It’s section 5 and 6.1; you read as 5.6.1—

The Chair (Mr. Bas Balkissoon): I’m reading it correctly; it’s got a comma instead of a period. We’ll make that correction to Hansard. It should read: “3.1(1) Subsection 15(1) of the act is amended by striking out ‘section 5 or 9’ and substituting ‘section 5.6.1 or 9.’”

Interjections.

The Chair (Mr. Bas Balkissoon): No?

The Clerk of the Committee (Ms. Tonia Grannum): It’s 5, 6.1 or 9.

The Chair (Mr. Bas Balkissoon): That’s what I read the first time.

Shall the motion carry? Carried.

We’ll move to the government motion on section 4:

“Subsection 19 (1) of the act is amended by adding the following clauses....”

Shall the motion carry?

Shall section 4, as amended, carry?

Next is an NDP motion:

“Commencement

“5. This act comes into force on July 1, 2009.”

M^{me} France Gélinas: On a point of order, Mr. Chair: I wasn’t aware that we were not allowed to speak to

motions, and I wanted to make sure that this comes into effect. If there is no date set in the bill, then it leaves me a little bit uncomfortable.

The Chair (Mr. Bas Balkissoon): We can't debate it. We're going to vote on the motion. If you wish to do something with the motion, just indicate.

M^{me} France Gélinas: I agree to withdraw the motion because of—

The Chair (Mr. Bas Balkissoon): Motion withdrawn.

Next is a government motion on section 5:

“Commencement

“This act comes into force on a day to be named by proclamation of the Lieutenant Governor.”

Shall the motion carry? Carried.

Shall section 5, as amended, carry? Carried.

Shall section 6 carry? Carried.

Shall the title carry? Carried.

Shall Bill 124, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

The committee is adjourned.

The committee adjourned at 0934.

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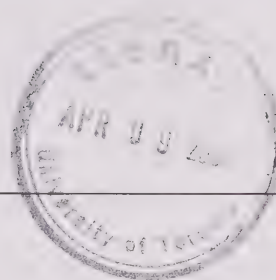
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First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 25 March 2009

Journal des débats (Hansard)

Mercredi 25 mars 2009

Standing Committee on the Legislative Assembly

Employment Standards
Amendment Act
(Temporary Help Agencies), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 modifiant la Loi
sur les normes d'emploi
(agences de placement
temporaire)

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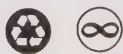
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STANDING COMMITTEE ON
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L'ASSEMBLÉE LÉGISLATIVE

Wednesday 25 March 2009

Mercredi 25 mars 2009

The committee met at 1230 in room 228.

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order, Wednesday, March 25, 2009. We're here on Bill 139, An Act to amend the Employment Standards Act, 2000, in relation to temporary help agencies and certain other matters.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): Mr. Delaney, can we have the report of the subcommittee on committee business?

Mr. Bob Delaney: Yes, Chair. Your subcommittee met on Friday, March 6; Friday, March 13; and Friday, March 20, 2009, to consider the method of proceeding on Bill 139, An Act to amend the Employment Standards Act, 2000, in relation to temporary help agencies and certain other matters, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 139 on the Ontario parliamentary channel, the committee's website, and for one day in the *Globe and Mail*, *Toronto Star*, *London Free Press*, the *French daily* and *L'Express*, and also in major Punjabi ethnic papers, and in major South Asian, Caribbean, Portuguese, Italian and Chinese ethnic papers.

(2) That the clerk of the committee also send information regarding the public hearings on Bill 139 to *Canada NewsWire*.

(3) That the committee meet for public hearings on Wednesday, March 25, and Wednesday, April 1, 2009, from 12:30 to 3 p.m. and also from 4 to 6 p.m., subject to authorization by the House of additional meeting time.

(4) That the Chair of the committee be directed to write to the House leaders to request authorization of additional meeting time on Wednesday afternoons (4 p.m. to 6 p.m.) as follows: March 25, April 1 and April 8, 2009.

(5) That the Ministry of Labour be asked to provide the committee with Bill 139 briefing binders prior to public hearings.

(6) That the appropriate Ministry of Labour staff associated with Bill 139 be asked to provide a 10-minute technical briefing at the outset of public hearings on Wednesday, March 25, 2009, to be followed by a 10-minute period of questions and comments by the three parties.

(7) That interested parties who wish to be considered to make an oral presentation on the bill contact the clerk of the committee by 4 p.m. on Wednesday, March 18, 2009.

(8) That, following the deadline for receipt of requests to appear on Bill 139, the clerk of the committee distribute a list of all requests to the subcommittee members.

(9) That witnesses be offered a maximum of 10 minutes for their presentation.

(10) That witnesses be scheduled on a first-come, first-served basis.

(11) That the clerk of the committee advise anyone who requested to appear but cannot be scheduled that they will be kept on a waiting list to be scheduled in the event of a cancellation, and also that they are invited to send a written submission.

(12) That the deadline for written submissions on the bill be 5 p.m. on Wednesday, March 25, 2009.

(13) That the committee meet for clause-by-clause consideration on Wednesday, April 8, 2009, from 1 to 3 p.m., and from 4 to 6 p.m., if required, subject to authorization by the House of additional meeting time.

(14) That for administrative purposes, proposed amendments should be filed with the clerk of the committee by 4 p.m. on Monday, April 6, 2009.

(15) That the research officer provide the committee with a summary of witness testimony prior to clause-by-clause consideration of the bill.

(16) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Chair, that is the report of your subcommittee.

The Chair (Mr. Bas Balkissoon): Shall the report be adopted? Thank you.

EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT
TEMPORAIRE)

Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to

temporary help agencies and certain other matters / *Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.*

MINISTRY OF LABOUR

The Chair (Mr. Bas Balkissoon): The first presentation is by the Ministry of Labour.

Come on up and introduce yourselves for Hansard. You'll have 10 minutes, and then we'll have 10 minutes of questions.

Ms. Cara Martin: I'm Cara Martin from the Ministry of Labour.

Ms. Debbie Middlebrook: I'm Debbie Middlebrook, Ministry of Labour.

Ms. Benita Swarbrick: Benita Swarbrick, Ministry of Labour.

Ms. Cara Martin: Bill 139, if passed, would amend the Employment Standards Act, 2000, to address certain barriers to permanent employment by prohibiting temporary help agencies from doing the following:

- restricting client businesses from providing references to employees;

- restricting client businesses from hiring a temporary agency employee if that employee has never been placed with that client by the agency;

- imposing on employees any temporary-to-permanent fees or any restrictions on accepting employment opportunities; and

- limiting a client from entering into an employment relationship with an assignment employee.

Bill 139, if passed, would also prohibit agencies from charging assignment employees fees. It would amend the ESA to prohibit agencies from charging any fees to employees or prospective employees, including fees for assistance in finding or attempting to find employment with a client or for services, such as courses on resumé writing, job interview preparation etc.

It will prohibit agencies from charging temporary-to-permanent fees. A temporary-to-permanent fee is a fee that a temporary help agency charges a client to hire an assignment employee directly. Bill 139, if passed, would amend the ESA to prohibit a temporary help agency from charging a temporary-to-permanent fee, except during the six-month period after the day when the employee first began to perform work for the client. The intent of this provision is to remove a barrier to permanent employment.

Determining when an employment relationship ends: The bill, if passed, includes a statement about when an employment relationship ends. The bill states that an assignment employee of a temporary help agency does not cease to be the agency's employee during periods between assignments. Employers need to terminate the employment relationship in order to end employer obligations. This section sets out existing law; it does not change it. This section was needed to make the part of the bill clear and comprehensive.

Bill 139, if passed, creates termination and severance rules that are specific to temporary help agencies. If an employee is not assigned by the agency for a period of 35 consecutive weeks, his or her employment would be deemed to be terminated on the first day of the 35-week period. In contrast, the general provisions of the ESA set out that a temporary layoff cannot be more than 13 weeks of layoff in any period of 20 consecutive weeks or more than 13 weeks in any period of 20 consecutive weeks, but less than 35 weeks of layoff in any period of 52 consecutive weeks, where certain conditions are met.

Under the bill, a temporary help agency assignment employee's employment would also be severed where the agency does not assign the employee for a period of 35 consecutive weeks. The employee would then become entitled to severance pay, if the general requirements under the ESA for receiving that entitlement are met.

1240

Severance pay is compensation to an employee for loss of seniority and job-related benefits. It also recognizes an employee's long service. The current provision of the ESA from most other employers states that if the general requirements for severance pay are met, employees will receive severance pay when their employer lays the employee off for 35 or more weeks in a period of 52 consecutive weeks.

The bill excludes home care workers that are under contract with community care access centres. The provisions of this bill are not relevant to CCACs. Issues such as possible ESA reprisal by a client, or the need to provide the employee with information about the client to ensure that it is reputable, are not relevant when the client is a CCAC.

The bill, if passed, would also amend the ESA to prohibit a client of a temporary help agency from engaging in reprisals against assignment employees. The agency, as the employer, would continue to be prohibited from reprising against its employees under the current provisions of the ESA.

The bill, if passed, would amend the ESA to specify that if the ministry is unsuccessful in its attempts to collect an order for unpaid wages, but obtains information about a client that may owe monies to the agency, the director of employment standards may require the client to pay the amount outstanding to the temporary agency instead to the ministry, and the ministry would then pay the employee.

The bill, if passed, would also amend the ESA to provide that assignment employees of temporary help agencies receive the following information when being referred to a client for an assignment that they have accepted:

- the temporary help agency's and client's names, including corporate names, address, phone numbers and contact names;

- the hourly rate, piece rate, and/or commission and benefits associated with the assignment;

- pay schedules;

- hours of work;

—a general description of work to be undertaken; and
—general information on ESA rights and obligations of assignment employees, temporary help agencies and clients, as prescribed.

That concludes the technical briefing.

The Chair (Mr. Bas Balkissoon): Thank you. We will now go to questions from the various parties.

Mr. Robert Bailey: Thank you for the presentation this morning. How long do we have, Mr. Chairman?

The Chair (Mr. Bas Balkissoon): About three minutes each.

Mr. Robert Bailey: Okay. My first question is in two parts. Did you meet with the agency representatives and get their input and advice as to how the severance issue would affect their businesses and also the clients that they represent?

Ms. Cara Martin: There was a consultation process that was undertaken between May and July 2008, where we met with ACSESS to get information about various things. Since the introduction of the bill, there have been other meetings with ACSESS as well.

Mr. Robert Bailey: And they made their points to you?

Ms. Cara Martin: Absolutely.

Mr. Robert Bailey: Second question: Why are the CCACs exempt? What was the reasoning behind CCACs being exempt from this act?

Ms. Benita Swarbrick: Benita Swarbrick. The CCACs are not like regular clients of agencies. They're also not receiving the services of home care workers directly themselves. CCACs, for example, are not going to engage in ESA reprisals against the workers. They also are well known to home workers and agencies, and so the home workers do not need information on the CCACs in order to know that it's a reputable client. Those are the provisions that we have in the bill to ensure that employees of agencies are protected with respect to the clients that they deal with. It's not a relevant type of employment when the contracts are being done through CCACs.

Mr. Robert Bailey: Do I have a little more time?

The Chair (Mr. Bas Balkissoon): Time for one more.

Mr. Robert Bailey: Okay. Back to the presenter. As regards the severance issue for temporary employees, was it made plain and understood by the ministry staff that there could be impacts on business and their temporary employees as well by the implementation and the provision of this severance issue?

Ms. Cara Martin: Was it made plain?

Mr. Robert Bailey: Yes. Was it understood what the implications could be to business during this time of—we're going to need a lot of temporary employees as we come out of this recession period.

Ms. Cara Martin: Yes—do you want to take it?

Ms. Benita Swarbrick: I just wanted to make clear that what we're doing with the severance and termination provision of this bill is essentially providing for a longer period of time, 35 weeks, that will occur before there's an automatic termination of the employment relationship.

Normally, it's 13 weeks out of 20. The reason why it's there is to provide greater flexibility for both employees and employers of temporary help agencies because of the intermittent type of work that they do. That's the entire purpose of it.

Other than that, there is no difference in the way that temporary help agencies are being treated with respect to notice of termination and severance obligations relative to other employers in the province.

The Chair (Mr. Bas Balkissoon): Okay. We'll move to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your hard work on this bill. I have a few questions. First of all, in terms of the six-month temp-to-perm issue, why six months? Why not three months, a year, two years, two months, two weeks? Why six months?

Ms. Benita Swarbrick: We thought that six months represented a good balance between the ease of employees to have access to permanent employment without undue barriers and also a period of time for temporary help agencies to be able to charge—they have ongoing fees, we believe, typically, in their relationships with their clients—to be able to have those fees and to have a fee that they could charge a client if they do try to hire one of their employees. That's a reasonable period of time for them to be able to recoup the investment they made to make the match between the employee and the client.

Ms. Cheri DiNovo: I'm aware that the Canadian Charter of Rights and Freedoms precludes barriers to employment. Would the six months be seen as a barrier to employment? Did you check the legal standing of this under a possible charter challenge?

Ms. Cara Martin: I'll let our legal counsel answer that question.

Ms. Debbie Middlebrook: If I could just quickly respond to that: It wouldn't be seen as a barrier because the amount of fees is looked at to be reasonable, so it's a six-month period and, as indicated by Benita, it's intended simply to allow an employer to recoup any costs that may be associated and to allow the employee to be able to receive an opportunity for permanent employment. So for the Charter of Rights and Freedoms, we have not identified any—

Ms. Cheri DiNovo: Okay. But what if the employer says it is a barrier for them to hire this person?

Ms. Debbie Middlebrook: Then it would be a legal question of whether or not that would in fact be seen by the courts as a barrier.

Ms. Cheri DiNovo: Right. So an employer could challenge this, as well as an employee.

The other question I have is around the CCACs and home care workers. You were talking about the different relationship with the CCAC as contrasted with a temporary agency. But temporary workers who work through temporary agencies get to know their agency workers pretty darn well and presumably trust them to a degree, or have to. I don't see the difference here. I heard your

explanation, but I don't really buy it, so perhaps you could explain it again.

Ms. Benita Swarbrick: The distinction that I really want to make clear is that we're not talking about the CCAC as being an agency but as being a client. This is the important distinction. It's a different kind of client because it is a government agency. It's not going to engage in reprisals, for example, under the—that's a part of this bill. It's a provision that we've put in to make sure that clients do not reprise against employees of temporary help agencies. That is not an issue that's going to come up with CCACs.

For example, also, they are not going to be in a situation where they have to provide information to their employees; that's the agency that's providing information to their employees about the client, so we have to think of the CCAC as being a client. That's how the CCAC operates with respect to these home care agencies—

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move to the government. Mr. Flynn.

Mr. Kevin Daniel Flynn: Thank you for your presentation. I'm sure at the ministry you have heard from people who think that the proposal you put forward perhaps goes too far. You've probably heard from people who think it doesn't go far enough and, as the old fairy tale goes, from people who think it's just right. From the questioning that we've had so far and from the presentation that you've given so far, and mindful that we're going to start hearing from the public and the stakeholders now and they're going to bring forward their presentations and opinions, is there anything outstanding that you haven't presented, any decisions you made along the way that you could perhaps highlight, reasons you did not move ahead with a suggestion or perhaps reasons that you did incorporate a suggestion that came from the stakeholders to date?

1250

Ms. Cara Martin: I'm not sure that that question might not be more appropriately answered by political staff, but certainly at the Ministry of Labour we consulted with the stakeholders, we heard their views. We and options forward to political staff, and decisions were made on that basis.

Mr. Kevin Daniel Flynn: Okay. So there isn't anything that you can think of that you maybe didn't cover enough in your presentation or maybe that we should hear a little bit more about; we're ready to hear from the public now.

Ms. Cara Martin: Yes.

The Chair (Mr. Bas Balkissoon): Thank you very much for coming and being with us.

ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Council of Agencies Serving Immigrants.

If you could come forward and state your name for Hansard. You have 10 minutes to make your presentation. If you're finished ahead of your 10 minutes, there will be questions from all parties.

Mr. Roberto Jovel: Thank you to the committee for this opportunity to present the views of the Ontario Council of Agencies Serving Immigrants regarding this bill. We have been involved in a process of consultation around this matter ever since the consultation process started. So we are very happy to be able to provide further input.

The Ontario Council of Agencies Serving Immigrants is an umbrella organization whose members are agencies serving immigrants, refugees, people without status—

The Chair (Mr. Bas Balkissoon): Can I have your name for Hansard and the name of the person with you?

Mr. Roberto Jovel: My name is Roberto Jovel. I am the policy and research coordinator at OCASI.

Ms. Tanya Chute-Molina: My name is Tanya Chute-Molina. I'm a board member at OCASI.

The Chair (Mr. Bas Balkissoon): Carry on.

Mr. Roberto Jovel: As I was saying, we are the umbrella organization for agencies serving immigrants, refugees, people without status and temporary workers in Ontario. The council was created 30 years ago to act as a collective voice for these agencies and to work towards the full integration of refugees and immigrants in Ontario and in Canada.

We are going to be sending the written submission before the end of the day today. I apologize for not having it here with us. I would like to make some introductory comments before we actually go into our recommendations regarding the bill.

One of the reasons why OCASI is concerned about the situation with temp help agencies is, if you look at information coming from Statistics Canada, particularly the labour force survey and the situation of immigrants in the labour market, it shows that unemployment rates are higher for recent immigrants and way higher than the average for Canadian-born people. Particularly, people coming from Africa and women coming from all over the world are in very difficult situations, with higher rates of unemployment; really high. There's a connection between that and of course the recourse that they may have to take temp-help employment.

There's also information coming out of Statistics Canada regarding the quality of employment, so when we talk about the rate of employment among recent immigrants, we need to look at what kind of employment we're taking about. Are we talking part-time; are we talking precarious and all of that? There's reason for concern amongst our member agencies and the people we serve around overrepresentation of immigrants, refugees, refugee women and racialized people among those who have been undergoing situations of abuse with temp-help agencies.

We welcome this bill in terms of a step towards assuring respect for workers' rights and protections against abuse. We also would like to say that we support

the presentation and the recommendations coming from the Workers' Action Centre, who have done extensive work in this area and solid research for some years now. We believe that we're presenting from the perspective of making a success out of building a future for Ontario including everyone, whether they were born here or not. I'm going to pass it on to Tanya Chute.

Ms. Tanya Chute-Molina: Good afternoon. For OCASI, Bill 139 represents a promising step forward for temp-agency workers. However, a number of issues still need to be addressed if the bill is to achieve its goal of achieving fairness and protection for temporary workers.

Moving away from elect-to-work exemptions for public holiday pay, termination and severance is one of those promising steps forward; however, we are concerned that the limitations placed around eligibility for termination and severance by temp agency workers is something that is unfair. Temp agency workers, in order to qualify for termination and severance, have to be terminated by the agency or not given a work assignment for at least 35 weeks in a continuous period. They do not have the right to refuse work during that period, and they may run into situations where an agency will offer them one or two days of work before the end of that 35-week period simply to avoid the costs of severance. We believe that the ESA rules should be applied in the same way to temp agency workers as they are to any other worker. We also note that the exemptions for home health care agency workers should be removed.

The second issue that I'd like to address is the elimination of fees. Again, I think that there are some very promising steps forward in this regard in terms of eliminating a series of different fees. However, we believe that there still is a barrier in terms of achieving permanent employment. In order to remove this barrier, we need to remove the possibility of charging fees for the client company to hire the worker directly within six months of starting the assignment. Again, if you refer to the submissions of the Workers' Action Centre, they note that 66% of temp agency workers are on short-term assignments of less than six months.

Mr. Roberto Jovel: A couple more points about the bill, one regarding information about work assignments: OCASI had recommended that the temporary help agency should provide every worker with complete information about each work assignment before the worker starts the job. Bill 139 proposes to require the agency to provide information about the name of the client company; contact information; hourly wage; commission paid by the company to the agency; benefits, where applicable; hours of work; description of the work to be performed; and the pay period and payday. What is missing is information about the length of the assignment.

Further, the bill proposes that the agency should provide the information listed above, although it is the client company that determines the factors affecting the assignment. The bill is not clear on what recourse a worker would have if there is a dispute between the information

provided by the agency and what the client company tells the worker.

In our recommendations during the consultation, OCASI had asked the ministry to ensure that workers are not put in a position where they would be caught between the agency and the client company in any dispute involving the assignment.

The last point is about information about employment standards rights. It's actually something that we welcome very much, the fact that the bill proposes that temporary help agencies should provide workers with information on their employment standards rights and about enforcement procedures. Tanya?

Ms. Tanya Chute-Molina: Again, what we have before us is a promising step forward, but much more remains to be done. In our view, we need to work not just for the protection of minimum employment standards but for equality and non-discrimination in the workplace. In Europe, legislation requires equal treatment in wages and working conditions for workers hired through employment agencies.

As noted earlier, newcomers and racialized communities are overrepresented in temp agency and precarious work. For these communities to achieve equality, we need to ensure that temp agency workers receive the same pay packages and benefits as other employees.

The Chair (Mr. Bas Balkissoon): Thank you. We have about 30 seconds each. We'll start with the NDP.

Ms. Cheri DiNovo: Very, very quickly: Since you work with immigrants, you probably heard about the discussions in the House and my questions of Mr. Fonseca on nannies, it being that this bill could be extended to include nanny agencies, people who are most precarious in the home and who don't have landed status. Would you be in favour of doing that?

Ms. Tanya Chute-Molina: Very much so.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Bas Balkissoon): The government?

Mr. Vic Dhillon: Thank you very much for your presentation. The vast majority of your presentation was about immigrants and refugees and their ability to not complain. If there were random inspections or audits done by the ministry, do you feel that would help in terms of creating better conditions for their work?

1300

Mr. Roberto Jovel: We were happy to hear from the government that they are willing to allocate more resources to reviewing compliance. So we're waiting to hear from the budget. Of course, any sort of close monitoring is absolutely needed.

The Chair (Mr. Bas Balkissoon): We'll go to the Conservatives. Mr. Bailey.

Mr. Robert Bailey: No questions.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to come and present to us.

The next presenter is the Council of Agencies Serving South Asians. Is anybody here from the Council of Agencies Serving South Asians? I'll move to the next presenter.

SERVICE EMPLOYEES
INTERNATIONAL UNION

The Chair (Mr. Bas Balkissoon): Service Employees International Union, come on up.

State your name for Hansard, and then you'll have 10 minutes. If you have any leftover time, we'll allow the parties to ask questions.

Mr. Elliott Anderson: My name is Elliott Anderson. I'm the director of government relations for the Atlantic, Central and Western Canadian Council of the Service Employees International Union, more commonly known as SEIU.

SEIU is an organization of two million members across North America, more than 100,000 in Canada. We're a union of working people united by the belief in the dignity of workers and the worth of services they provide. Our members are dedicated to creating a more just and humane society, and to achieve this goal, our union is committed to organizing workers.

SEIU is the fastest-growing union in North America and in Canada. Since 1996, across North America nearly 900,000 workers have united in SEIU. SEIU is the largest property services union in North America—cleaning contractors and security guards—and the largest health care union in North America.

In an unfortunate sign of the times, I'd be remiss if I didn't mention this to the committee: Members in both of these sectors that are members of our union are currently on strike. Security guards at the Windsor Raceway have been off the job since March 5, and home care workers employed by the Red Cross across Ontario, about 3,000, are now in the second day of ongoing strike action. I feel that's an issue that should be of particular concern to this government.

These workers, like many of our members, have been marginalized by the changes in our economy. Like a growing number of workers in Ontario and across North America, they are falling into a new world of work. Full-time permanent jobs with pensions and benefits are being replaced with short-term, part-time temporary work arrangements where wages are lower, benefits are rare, and legal protection, much less strong union representation, is hard to find.

The Minister of Labour, in his introduction to Bill 139, stated that the nature of work has changed. He's absolutely right. Bill 139 and the regulations that accompany it are very positive steps, and I wanted to say that very clearly. I'm going to focus the majority of my limited time on areas where we'd like to see changes, but I did want to get on the record that we're thankful for this bill. We had an opportunity to meet with the minister and particularly with the parliamentary assistant to the minister, who has been working on this issue for some time, and we thank them for attempting to tackle it.

One regulation in particular that has already come into place, which was announced in conjunction with this bill, was the regulation extending holiday pay to all workers regardless of whether they were classified "elect to

work." That is a positive step which we are very thankful for.

Small steps but positive steps—and we welcome the bill. In the time provided, however, we want to address some key concerns which we hope the committee will take note of.

First, the narrow definition of temporary agency in Bill 139: Part III of the bill proposes adding a new section, 74.1, to the Employment Standards Act which would define temporary help agencies as "an employer that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer." This, again, is a good step for dealing with the world of precarious work, but we feel the definition is a little narrow. If the government's goal is to protect vulnerable workers in the world of work, then a broader definition capturing a variety of employment agencies is required. The misclassification of workers as subcontractors is a common practice in cleaning that we have encountered in our union, and it provides a good example of the sort of precarious work that we would hope to see covered by this bill. This is not necessarily an issue of temporary work, but it is an area where Bill 139 could help, we feel.

In the course of organizing and researching our campaign Justice for Janitors, which is an effort to create bargaining rights for all cleaners in the cities of Toronto and Ottawa, SEIU Local 2 has observed situations where workers trapped in subcontracting schemes are regularly denied their employment rights. In one situation, a Toronto cleaning company contracted with another entity to perform work in two buildings in the city of Toronto. In exchange for the cleaning services provided by the purported employees of the subcontractor, the company paid \$9 per hour to the subcontractor for the hours worked by those persons. In turn, the subcontractor paid its purported employees in cash at the rate of \$8 per hour.

Obviously this situation raises a series of red flags. First, and perhaps most obvious, the affected employees were not paid the minimum wage prescribed by the Employment Standards Act. Beyond that, it's clear that the subcontractor was not receiving adequate funds to provide for the payment of vacation pay mandated by the Employment Standards Act, as well as various premiums, taxes and levies required by different legislation; for example, WSIB premiums. These subcontracting schemes are unregulated and are too often used to exploit vulnerable workers, particularly new Canadians who are unaware of their legal rights. As one worker trapped in a subcontracting scheme noted, "That's why they're keeping us as subcontractors. I don't have CPP, WSIB. There is no vacation pay, no bonus. There are no sick days. Nothing at all."

The issue of subcontracting abuse requires an overall strategy, I'd argue, from the government beyond Bill 139, but I feel Bill 139 could take a step towards curbing potential abuses of this arrangement by broadening the definition of temporary agencies in section 74.1 to cover all employment agencies, anybody charging a fee for

placing people in employment. I urge the committee to consider such an amendment, and I know other presenters today will be putting such a suggestion forward.

The second issue that I want to address today concerns the one class of temporary workers that will not be receiving new protection under this act, and that's home care providers. Section 74.2 of Bill 139 sets out that the new provisions regarding temporary workers will not apply to working women and men in home care. They are specifically excluded. SEIU has also been informed that if Bill 139 is passed, the government intends to revoke the elect-to-work exemptions regarding notice of termination and severance pay within six months of passage. However, once again, home care workers would be treated differently. For these women and men, the exemptions would not be revoked until October 1, 2012. The government has argued that the provisions of Bill 139 cannot be effectively applied to home care agencies. However, the decision to make home care workers wait three years longer than any other worker in Ontario for termination and severance is a little harder to justify. We just feel that with this bill being an overall positive direction, this decision to treat home care workers separately is undermining what should be good news with some undue delay.

Equally vitally, if the government is not prepared to address the issues facing temporary workers in home care through Bill 139, then we feel that it's incumbent on this government to find other means to address the poor working conditions that home care workers face. I want to talk a little bit about home care workers because we're particularly facing some serious issues in the sector right at this exact moment.

The government of Ontario indirectly employs nearly 16,000 women and men to provide home care services in Ontario. These workers are mostly women, widely respected in their communities and living on wages that often leave them below the poverty line.

In other provinces, home care workers are employed directly by government health agencies and have stable, reliable and rewarding jobs. Ontario, however, has embraced a service delivery model where all work is conducted through agencies which compete for contracts every three years. Not surprisingly, home care workers in Ontario consequently have limited job security. They also have lower wages and fewer benefits, and people abandon the sector in higher numbers. In other words, the government has consciously chosen to make home care part-time temporary work.

Government attempts to curb the flaws in the system have had underwhelming results thus far. I'll note, for example, that in May 2006 the Ministry of Health announced increased funding to address concerns laid out by Elinor Caplan in her report on home care and to set a minimum wage of \$12.50 an hour for personal support workers in home care. Unfortunately, the minimum wage has not led to an effective living wage because these workers, due to their status as temporary workers, aren't paid for a large chunk of their working day.

I'll explain further: A typical personal support worker is expected to visit five or six clients, patients, people in their homes, a day. Obviously this means that a lot of their working day is spent in transit. However, personal support workers are only paid for the time they're in a client's home. The several hours they spend daily driving from home to home are not properly compensated. There's no agency that provides full and adequate compensation for those services.

To provide one example, Pam Sulyma is an SEIU member and a Red Cross personal support worker in the Niagara region.

1310

The Chair (Mr. Bas Balkissoon): There are 30 seconds left.

Mr. Elliott Anderson: You know, it's funny; I thought I would read too fast.

On a typical workday, she's on the job for 11 hours. She spends approximately four hours driving, for which she's not paid, and seven hours administering care, for which she earns \$14 an hour. Her income, after an 11-hour day, is \$98, or \$8.90 an hour. Suffice it to say that people are leaving the system, and a study of the impact of managed competition on home care workers has found that more than half the workers—

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here.

Mr. Elliott Anderson: I apologize very much and I urge folks to read the written submission. Thanks very much.

COUNCIL OF AGENCIES SERVING SOUTH ASIANS

The Chair (Mr. Bas Balkissoon): The next presenter is the Council of Agencies Serving South Asians.

Please state your name for Hansard. You have 10 minutes. If there's any time left in your 10 minutes, there will be questions from all parties.

Mr. Abimanyu Singam: My name is Abi Singam, and I'm here to present on behalf of the Council of Agencies Serving South Asians, CASSA.

CASSA facilitates the economic, social, political and cultural empowerment of South Asians by serving as a source of information, research, mobilization, coordination and leadership on all social justice issues affecting our communities. As a social justice umbrella organization working with Ontario's diverse South Asian communities, we would like to express our support of the government of Ontario's efforts to improve the employment standards of all workers in Ontario.

Through this brief, CASSA would like to bring to the attention of this committee some of the challenges faced by workers of South Asian background in Ontario, while identifying some of the changes that the proposed legislation must undergo in order for it to be effective in improving the working conditions faced by all workers in Ontario, including those of South Asian origin.

Canada is home to more than a million people of South Asian origin, and 61% have chosen Ontario as their home. It's one of the communities that's a very new immigrant community and faces many challenges in integrating in Ontario. For instance, while Canadian adults of South Asian origin are considerably more likely than the rest of the population to have a university degree—25% of Canadians of South Asian origin aged 15 and over have a degree, compared to 15% in the overall adult population—they earn significantly less than the national average. In 2000, the average income from all sources for Canadians of South Asian origin aged 15 and over was just under \$26,000, compared with almost \$30,000 for all Canadian adults. Recent reports by the Children's Aid Society of Toronto also indicate that one in four children from South Asian communities lives under the poverty line, compared to other children.

According to the research that we have done and the information that we have collected among South Asian communities, this issue of temporary workers is of primary importance. As part of our dialogue with members of the South Asian communities, we held media talk shows, town halls and public discussions to identify some of the challenges faced by members of the South Asian community in accessing equitable employment opportunities in the GTA. During these discussions, the issue of temporary agencies and their exploitation of a vulnerable workforce, lack of benefits, and lack of proper information about the work they're being hired for featured prominently. It is with this lens that we studied the proposed Bill 139.

We are pleased that the government has taken leadership in addressing the challenges faced by those working through temporary agencies. It is to be noted that the people who work through temporary help agencies will work weeks, months and sometimes years alongside co-workers doing the same job but for 40% less pay and fewer or no benefits, no job or income security and little protection against employment standards violations.

As an organization, we are deeply concerned about the racialization of poverty in Ontario. We are extending our fullest support to this bill in the hope that such measures would promote equitable access to employment and workers' rights. We commend the enactment of regulation 432/08, which eliminates the public holiday exemption for elect-to-work employees effective January 2, 2009.

CASSA, however, invites all our legislators to endorse the bill, as CASSA understands that Bill 139 will eliminate elect-to-work exemptions for public holiday and termination and severance entitlements and reduce direct fees that can be charged to agency workers. The bill requires that the legal and operating names of the agency and contact information for the agency, client company and work assignments be provided to employees.

We support the bill in the belief that the bill would require agencies to provide all employees with a copy of the information developed by the Ministry of Labour in

an employee's language, if available, about the employment standards, rights and responsibilities of temporary help agencies, client companies and agency workers.

We also hope that the bill would extend some responsibilities, such as anti-reprisal protection, under the Employment Standards Act to the client company and the agency, and that this bill will reduce barriers to permanent jobs by removing some of the barriers that those temporary agency workers on longer-term assignments face when trying to be hired directly by a client company by prohibiting an agency from restricting workers from being hired directly by the client company.

Therefore, we actually acknowledge the leadership the Workers' Action Centre has provided in advocating for improved employment standards for all workers in Ontario and endorse the Workers' Action Centre's recommended amendments. We propose that the committee consider making these amendments to Bill 139.

We hope that Bill 139 would construct the agency as the employer of the assignment worker, and that it also restrict liability of the client company for the person assigned to work on a temporary basis to issues of reprisals.

The narrow scope of Bill 139, however, would still allow temporary staffing and employment agencies to charge workers fees for job placement. We therefore urge that the committee considers favourably the WAC's proposed amendments to change the name of new part XVIII.1 from "Temporary help agencies" to "Employment agencies" and the amendment to change 74.1(1), which is the interpretation for "temporary help agency" to read "'employment agency' means the business of providing services for the purpose of finding workers employment with employers or of supplying employers with workers for employment by them or that employs persons for the purpose of assigning them to perform work on a temporary basis for clients of the employer," and that the bill would reflect this definition of employment agency interpretation through the act.

Second, we also hope that section 74.2, which excludes a worker who is an assignment employee assigned to provide services under contract with a community care access centre, CCAC, or who is doing work governed by a contract with a CCAC—because we strongly feel that the subcontracted home care workers should be getting the same minimum termination and severance benefits that other workers get and that they should not have to wait three years to get termination and severance entitlements, we urge you to delete section 74.2, which is covering the exemption of home care agency workers under a CCAC contract, in its entirety.

We also recognize and support the government's proposal to prevent agencies from restricting a client from directly hiring a worker that was on assignment at the company through this legislation, but we are concerned that Bill 139, as it stands now, would allow agencies to apply restrictions on companies directly hiring assignment workers within six months of starting an assignment.

We also believe that the agencies should not be allowed to charge the client companies additional fees to compensate for future loss of earnings from a worker. These prohibitive charges would discourage employers from offering employment to workers and leave them in a vulnerable situation. We therefore urge that the government remove the six-month exception to prohibitions on barriers to employment. Therefore, we propose the amendment to delete subsections 74.8(2) and 74.8(3).

Fourth, in practical terms, the elect-to-work exemption in the ESA is used to deny termination and severance to mainly low-wage workers in temporary, contract and irregular forms of work. Therefore, we believe that removing the elect-to-work exemption is the most effective way of bringing fairness and protection of termination and severance benefits for temporary agencies. We propose that the government should proceed immediately with a regulation to remove the elect-to-work exemption for termination and severance.

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This legislation sets up additional barriers and promotes a two-tier system of rights. The current standards that support termination and severance pay in the Employment Standards Act should apply to agency workers, rather than creating a two-tier system where agency workers would have to wait more than twice as long to be eligible for termination.

The bill will also disentitle agency workers from termination and severance if they are sick or taking other statutory leave. Therefore, we call upon the committee to consider amending Bill 139 to include temp agency workers under the current termination and severance pay requirements in the ESA. Therefore, we call upon the committee to consider deleting "Termination and severance," section 74.11.

Fifth, the information—

The Chair (Mr. Bas Balkissoon): You have 30 seconds.

Mr. Abimanyu Singam: The information requirements in the proposed legislation, sections 74.5 and 74.6, address the reality of the changing labour market by requiring the information about the agency, client company and assignment to be provided to the temporary agency worker. However, to fully address the realities that temp agency workers face, workers need to know the expected duration of the assignment. Therefore, we propose the following amendments—

The Chair (Mr. Bas Balkissoon): Thank you very much. We have to move to the next deputation.

Mr. Abimanyu Singam: Thank you again for your time.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time.

ADECCO EMPLOYMENT SERVICES LTD.

The Chair (Mr. Bas Balkissoon): The next presenter is Adecco Employment Services Ltd.

Please state your name for Hansard and you have 10 minutes. If there's any time left over, there will be questions from all parties.

Ms. Nicolette Mueller: Thank you. My name is Nicolette Mueller. Good afternoon, members of the standing committee, and thank you for allowing me the opportunity to address this important issue before you today.

I understand that in some circles—namely, this one—there is a negative stereotype surrounding staffing agencies and the use of temporary workers. I'd like to start by telling you a little bit about myself and my employer, Adecco Employment Services Ltd., to hopefully address that stereotype.

For many years, I practised employment law at a large Toronto firm. My practice mix was roughly 50-50 between employers and employees. As an advocate on behalf of employees, I assisted with bringing employment standards complaints before the Ministry of Labour, as well as human rights complaints based on discrimination and harassment before the Ontario Human Rights Commission. Less frequently, I had occasion to assist employees with matters before the Canada Employment Insurance Commission and the Workers' Compensation Board. These were in addition to the many breach of contract and wrongful dismissal lawsuits dealt with in the regular courts.

On the other side of the table, as counsel to employers, I assisted clients with drafting and implementing legally compliant human resource policies, conducting harassment training and investigations and giving advice on human resource practices and procedures. The goal of much of my work was to support my clients in implementing sound, balanced and fair employment strategies that would be to the benefit of both the client and their employees.

When I left private practice and joined Adecco, many aspects of my practice continued on in my current role as vice-president, human resources and legal counsel. While I now officially only represent one client, I still see my role as ensuring that we implement sound, balanced and fair employment strategies for the good of Adecco, Adecco's clients, as well as our employees.

For those of you who may not know, Adecco is a global leader in providing HR services. On a daily basis, Adecco employs 500,000 temporary workers in over 60 countries. Adecco connects more people to more jobs at more companies than anyone else in the world. Our biggest asset is our workforce, and we take great care to treat our workforce fairly, ethically and in compliance with our legal obligations.

Adecco's operating model is to offer flexible employment options to those who seek it and to ultimately transition temporary workers to full-time employment. Our pool of temporary workers comes from many backgrounds. Many are recent immigrants to Canada who need help with eliminating barriers to employment in order to be hired into the industries in which they've been trained in their home countries, or those who wish

to work part-time while they're pursuing accreditation in their fields of work. Other workers are recently retired or seeking a second career. Adecco has recently partnered with CARP, the Canadian Association of Retired Persons, to provide employment opportunities for seniors who wish to change their career direction or earn extra income in their retirement through temporary work assignments. Other temporary workers are students who wish to work while studying or between school terms. And yes, there are also employees who are seeking full-time, permanent employment and wish to work on short-term assignments to get by until they do.

All temporary workers, including those whom Adecco is not able to place on assignments, are offered ongoing training designed to increase their skills, job opportunities and income potential. We have thousands of free on-line courses available to anyone who wishes to take them. Our ultimate goal is to provide temporary employment to those seeking it, provide the opportunity to upgrade and learn new skills and, once those have been acquired, to assist temporary workers in finding permanent work, either with the clients to whom they were initially assigned or with other clients who retain Adecco to recruit permanent employees on their behalf. Often we meet that goal.

I don't have time to go through them, but behind the yellow sheet in these submissions are approximately 30 e-mails as samples that I wanted to bring to your attention from our temporary workers. The first one is from a recent immigrant, and she relates her experience and thanks Adecco for assisting her. The second is from a woman who came out of hairstyling in her 50s because of surgery on her hands; she could no longer style hair. She talks about Adecco's job training for other positions—and so on and so forth. I'll let you go through those at your leisure.

You will see from the dates of these e-mails that none was solicited for the purpose of these proceedings today. They're just a few of the many examples of ongoing feedback that we receive from our temporary workers, and this was long before Bill 139 was introduced.

In Canada, up until six months ago, Adecco sent 11,000 temporary workers out to work every single day. They were deployed across the country to thousands of small, medium and large enterprises in a wide variety of industries. About 60% of that workforce was based in Ontario, where, as you know, manufacturing and secondary auto supply industries are concentrated. As you well know, many of those businesses today are struggling and have significantly reduced both their permanent and temporary workforces. Some are teetering on the brink of bankruptcy. In order to become as efficient as possible, many seek the help of staffing agencies like Adecco to assist them with flexing their workforce up when there's a temporary rise in demand and down again when demand wanes. Their survival depends on this flexibility.

At a time when the state of the economy demands removing obstacles to temporary employment, certain parts of Bill 169 do the exact opposite. In fact, it will

become costlier for companies to hire agencies and thereby impair their ability to respond to these unpredictable times.

However, before I get into the problematic aspects of Bill 139, I want to make it clear that we at Adecco applaud its overall objective, which is to protect workers. This is an objective shared by many agencies. It's only right that temporary workers are given information about their assignments, including their wage rate and benefit information, their hours of work and a description of their assignment.

We agree that an agency should not charge temporary workers a fee for signing up with the agency, assisting with resumés or preparing for job interviews. We also agree that the time spent training a temporary employee for a specific position is compensable time and that they should be paid. Finally, although my view isn't shared by all agencies, I personally agree that when temporary workers work on the days leading up to and following a statutory holiday, they should be paid for the statutory holiday.

There is much that is positive about Bill 139. However, there are some sections of Bill 139 which are problematic and could have a devastating impact on the industry, our clients and those whom Bill 139 was intended to protect—the workers.

One such section is 74.4, subsection (2), which is the deemed continuance of employment between assignments. Nowhere in North America, or any of the other 60 countries in which Adecco operates, has such a legal concept been introduced. There's good reason for this. The effect of this section is to treat staffing agencies more onerously than any other employer.

Take the example of the temporary workers we assign to one of our clients' state-of-the-art warehouse distribution centre in the GTA. The client is a large national retailer, and our temporary workers assist with shipping and receiving merchandise during this retailer's Christmas rush. Their assignments usually start early in the fall and continue through into January, after which point the client flexes back down to its core group of permanent employees until late spring when business peaks again. At this point, some of the same temporary workers may be offered a second assignment there. Some may accept and some may not. Possible reasons for not accepting a second assignment are numerous. People move or find employment elsewhere. They may be travelling or at school or may have decided to stay home with children during summer months. Regardless, even though they're not available to work, this deems them to be continuously employed and accruing tenure. Then, 35 weeks later, that employee is entitled to one week's termination pay. Any other employer would not be liable for this amount, but Adecco would.

The section can also lead to ridiculous scenarios. Starting with that same example and changing the facts slightly so that the same temporary worker accepts a short-term assignment with Adecco and, when completed, accepts a second assignment with a competitor

and then, shortly after that, a third assignment with a third competitor: Following that, according to Bill 139, that temporary employee would be the employee of three agencies at the exact same time, accruing tenure with each of them and becoming entitled to termination pay from each of them. Again, in no other industry would this be possible.

1330

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Nicolette Mueller: Multiply these added termination costs by the thousands of employees Adecco has in Ontario and we no longer have a viable business model. We'd be forced to increase the cost of our services to our clients, who would, in turn, reduce the use of our services.

Continuing with the example of our retail client, instead of opting to use temporary workers it may opt to require a smaller pool of its permanent workers to work longer days and more overtime hours to meet its cyclical demands. The effect of this would be employment of significantly fewer employees and, more generally, an economic climate that puts Ontario businesses at a competitive disadvantage.

The Chair (Mr. Bas Balkissoon): Thank you very much.

Ms. Nicolette Mueller: The rest of my submissions are in the handout that you've been given.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time.

ASSOCIATION OF CANADIAN SEARCH, EMPLOYMENT AND STAFFING SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is the Association of Canadian Search, Employment and Staffing Services.

Please state your name for Hansard. If there's any time left over after your presentation there will be questions from the three parties.

Mr. Steve Jones: My name is Steve Jones.

The Chair (Mr. Bas Balkissoon): Go ahead.

Mr. Steve Jones: Good afternoon, Mr. Chairman, members of the committee, ladies and gentlemen. Thank you very much for the opportunity to speak with you today and to see you here today.

My name, again, is Steve Jones. I am president of the Association of Canadian Search, Employment and Staffing Services, known as ACSESS. We are the national association representing the staffing services industry in Canada. We represent executive search firms, employment agencies, professional and technical contractors and, of course, temporary staffing service firms.

While our name has changed over the last 35 years, ACSESS has emerged as the single and national voice, respected as the voice for the broader staffing services industry with an honourable purpose to foster the health of the industry by promoting dignity and respect amongst workers by promoting and protecting employee rights,

and to influence and promote good public policy through the full and proper understanding of our industry and our industry's practices.

This June 2009, I personally will have completed my 26th year in the staffing services industry here in Ontario and I will be in my fifth term as a volunteer president of our industry association, ACSESS. I personally have received a volunteer of the year award from the Solicitor General of Canada for my work through ACSESS on the integration of vulnerable workers into the workforce, and many other ACSESS members have been named for countless awards throughout the industry, showing that our people and our companies inside our association are dedicated to quality and ethics and particularly to making a meaningful difference in the lives of the people that we serve.

We were here in 1989, when we supported the creation of the employer's health tax under the Peterson government at the time to ensure that there was an employer paid health care coverage for all temporary workers in Ontario. We were here with reforms to the Workers' Compensation Board, to the creation of the WSIB, to ensure that there was a sustainable model for guaranteed insurance for injured temporary workers. We have created an industry safety group through the WSIB, and amongst the 32 safety groups in Ontario, ours was ranked number one in all of the province in terms of reducing lost-time injuries and reducing incidents.

I give you this background so that you have confidence that while you may hear a variety of opinions and interpretations from other groups and various presenters over the next few weeks, you can rely with confidence that the materials you've received from ACSESS—that ACSESS is a source of facts about the industry. If you understand the truthful facts, then you are in the right place when you get to make your own interpretations and develop your own personal opinions about what needs to happen for the temporary staffing services industry.

The good news is that I come here today, representing ACSESS in the entire staffing services industry, to say that we are supportive of Bill 139. We support the overall objective, quoting Minister Fonseca, which "is to ensure that Ontario's employment legislation recognizes the needs of temporary employees and staffing services firms who employ them in a fair and balanced way." Fair and balanced.

We support the recent regulatory changes that occurred in December to eliminate exemptions, to ensure that all workers in the province, including those working in temporary employment arrangements, have equal access to public holiday pay. We're doing a great job in moving forward.

While the bill contains page after page of important and effective initiatives, let me be very clear about one point: There are two paragraphs, and only two paragraphs, that have shortcomings in this bill. These two paragraphs on first glance seem innocuous, yet these two technical errors will undermine any benefits that the overall bill could achieve. These two paragraphs that

have gone astray will cause harm to the most vulnerable workers in Ontario. They will result in barriers to employment, they will create lost employment opportunities and they will hurt the exact group of people that we all set out in the beginning to assist and defend and protect. These two simple paragraphs create a complex web of administrative, technical and legal cost barriers that will destroy the industry and will cause irreparable harm to Ontario's economy and our ability to recover. So we move on to look at two—just two in the entire bill—amendments to ensure that this bill achieves its stated objectives.

You have the notes with more detail, but the first is clause (b) of subsection 74.4(2), where it says, "An assignment employee of a temporary help agency does not cease to be the agency's assignment employee because ... he or she is not assigned ... to perform work." So I translate for you: What that means is that when a person finishes their contract term, when they're done their job, even though they have been given adequate and proper notice, even though their term or their task is complete, this paragraph in the bill will mean that the employee, even though they do not want to work, may not be available, may have gone back to school, may have found work elsewhere, may be at home looking after their children, may have, in the most extreme scenario, been incarcerated, in jail and failed to inform us, they will theoretically continue to be, under this bill, our employee, accruing tenure and the rights of an employee. This, quite frankly, just doesn't make sense. This what I refer to as a sleight of paragraph would only apply to staffing services firms; it would not apply to any other employer in Ontario; it would not apply to any other staffing services firm anywhere else in the world. This is a notion that does not exist in employment law anywhere in Europe or North America or Canada. So we simply ask you to look at subsection 74.4(2) and please remove that from the bill.

Our second concern and second paragraph is 74.8(1), paragraph 8. It has been referred to earlier, and its exceptions. In this area, which is in the notes provided to you, there are 10 prohibitions, nine of which are excellent, and we support them—nine out of 10. One paragraph gone awry: Paragraph 8 provides that we cannot charge fees under certain conditions after six months of work. Over 200,000 workers found full-time regular employment through the temporary staffing services industry last year in Ontario. Over 50% of the people worked on temporary assignments, which resulted in full-time permanent work, but this particular provision mistakenly uses the Employment Standards Act to interfere with our negotiated agreements regarding our customers' fees and payment terms in an inappropriate and misguided way.

This provision disregards the well-established legal principles that have been reinforced by the highest courts of Ontario and Canada regarding fair business practices, protection of confidential information, contractual tortious interference, unfair competition, fiduciary duty—

and I could go on. This clause does nothing to help the people who need it the most, and it inadvertently and accidentally will affect all other aspects of our industry, affecting workforce management, professional services, on-site services, payroll services, engineers, drivers, information technology professionals, even executives placed on contracts. It destroys our industry. It does not respect the hundreds or maybe thousands of permutations of business models and variations of services, while it ineffectively attempts to help a tiny segment of our industry. Please take a look at this subsection 74.8(1) paragraph 8 and the subsection exemptions, (1) and (2). Understand that the nine prohibitions that are there do a wonderful job of achieving our objectives. This particular one is not necessary, and quite frankly could be harmful.

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Our goal, as an association, is to go forward to say that we can support this bill in its entirety, to stand shoulder to shoulder with all the other groups that are appearing before you—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Mr. Steve Jones:—particularly with the government, to say that we can and will support Bill 139 to help the people who need it the most. But we encourage you and urge you to deal with these two amendments so that this bill will work and we can stand with you and make it become an effective law for Ontarians.

Thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is Parkdale Community Legal Services.

Please state your name for Hansard. You have 10 minutes. If there's any time left after your presentation, there will be questions from all parties.

Ms. Mary Gellatly: My name is Mary Gellatly, from Parkdale Community Legal Services. We're a poverty law clinic, providing support for people in low-wage and precarious work.

Temporary work is just one of the ways that employers are moving work beyond the protection of our labour laws; we see this every day. So we certainly applaud the government for taking a first step in updating and improving our employment standards. Hopefully, it's just the first step of many to protect people in precarious work.

The goals of Bill 139 are to ensure fairness and protection for temporary workers, and we support these goals. When we looked at Bill 139, we looked to see how it would meet these goals of fairness and protection. Certainly, Bill 139 takes some important steps in expanding protection and employment standards for temp workers: things like improving access to public holiday pay; making it illegal to charge temp workers fees;

providing workers with information about assignments and employment standards rights; making client companies legally responsible for reprisals against temp agency workers who try to enforce their rights—these are very important changes. In our submissions, you'll see further discussion about how they can improve conditions for temp workers.

But at the hearing, we want to talk about what needs to be changed and fixed. For us, there are four things which we believe are important to address in order to meet those goals of fairness and protection. In our brief, we've got more detailed clause-by-clause changes to help with the effectiveness of the act.

First, I want to address—and other people have addressed it before—the issue of the barriers to hire. The government set out the important goal of ensuring that workers are not unfairly prevented from assessing permanent jobs when employers want to hire them from the agencies. Getting rid of barriers that temp workers face to more stable, higher-paying jobs, potentially with benefits, is an incredibly important part of an economic recovery plan, particularly in the current context, and an important part of a job development strategy.

But Bill 139, as we've heard, will only make barriers illegal after six months from the first day of assignment. This effectively creates a six-month barrier on hiring, and we feel that this absolutely has to be removed. The reality is, the majority of temp workers work for assignments that are six months or less. The majority of temp workers are not going to benefit, and we'll effectively have two standards, one for longer-term and one for shorter-term workers.

The six-month barrier on hiring will create a loophole that will allow agencies to cycle temp workers through. Basically, the six-month prohibition is on an individual employee. All that agencies have to do is, at five and a half months, take out the assignment employee, put in another one, and you've got an effective loophole which allows them to avoid the prohibitions after six months as well.

Putting in law that agencies can restrict the free movement of employees in our labour market is a dangerous precedent for employment law, and one that we should not be taking here. A six-month barrier on temp-to-permanent hiring that leaves the majority of agency workers trapped in low-wage and precarious work—these are precisely the workers that this bill is supposed to be protecting. Restricting temp agency workers from gaining permanent work is contrary to public policy, particularly in the current economy.

The temp agency is arguing that it's going to be financially hurt if it can't recoup its costs through these fees for recruiting and retaining this pool of labour that it leases to clients. The argument is based on the assumption that agencies don't spread their overhead costs across the board through their markup fee, and they do that. Recruiting costs are the same as other costs for advertising, heating etc. Those costs are applied to the markup fee, which is charged on an hourly basis. We

have to look back to what is the very purpose of our legislation. The legislation is to ensure that the costs of employer obligations for employment standards—and those are our basic, minimum standards—are borne not by workers through not being able to get a stable job, but by employers and, in this context, client companies who benefit from that labour.

To be effective to the goals of the legislation, we need a total prohibition on barriers to permanent hire to ensure that the underlying goals of Bill 139, but also the remedial nature of employment standards legislation, are maintained.

Second—it seems that we have agreement on the kinds of issues that need to be addressed—termination and severance is also an issue that we feel needs to be addressed. It's good that the government announced that it's going to get rid of the elect-to-work exemption for termination and severance. Quite frankly, there's no need to wait until Bill 139 is passed. The government can proceed immediately by regulation to get rid of that. People in precarious work, temp agency and all other workers, who are denied termination through the elect-to-work prohibition need that termination and severance now, particularly with the state of the economy. Let's move immediately. We don't have to wait.

What we do need to do for termination and severance is deal with the special rules that are being considered. As we heard from the Ministry of Labour, temp agency workers right now get the same termination and severance entitlements that other workers in the province get. The bill would create special rules which say, "You don't have to be unemployed for 13 weeks out of 20. Now you've got to wait 35 consecutive weeks without any right to be sick, disabled, to get a statutory leave"—other grounds that we believe, under the Human Rights Code, could cause a serious challenge to this provision.

Fees create lower standards for temp agency workers. They create impossible barriers which I think effectively are going to mean that people don't get termination and severance. The bill is supposed to protect temp agency workers. These special rules certainly do not provide that protection, and I think they limit workers' access. We believe that 74.11, termination and severance, the special rules, have to go. They have to be deleted.

We've heard the temp industry arguing that they want to basically reduce their liability for termination and severance by reducing—right now, the Ministry of Labour has told us that the practice in Ontario is that temp agencies are responsible for workers from the time that they sign up until the time that that relationship is terminated. That's a practice now. Now they want to say, through the deleting of a provision of Bill 139, "We don't want to be responsible for workers for the whole time"—even through the very nature of the business is to have a pool of workers to lease. They don't want to be responsible for them except when somebody is directly on assignment, making money for them.

Again, we have to go back to, what is the objective of Bill 139? What is the objective of employment stan-

dards? It is to ensure that minimum employment standards and the cost of those rights are not borne by workers. Right now, with the reality that most temp workers never get termination and severance, those costs are being borne by workers who systematically make 40% less than their coworkers. Let's get rid of the termination and severance thing.

The other thing I might add is that in the story we heard about having to have staff online for 35 weeks, even though they may have just worked over the Christmas holidays, agencies have the right to give notice. To give a week of notice, they don't have to pay a cent. I think it's a bit of smoke and mirrors to cast it as bearing liability for 35 weeks. There are mechanisms to give people notice without any cost liability.

Our third point is around the bill and who it leaves out. We believe that the bill will leave some workers still charged fees for work. When the government introduced Bill 139, it said that it was stopping agencies from charging fees because it was unfair. The minister said that. He's absolutely right: It is unfair. But Bill 139 will still leave a third of the employment and staffing industry with the ability to charge workers fees for work. It's a step backward from Ontario's old Employment Agencies Act—the original bill that you brought forward, Mr. Dhillon.

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The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Mary Gellatly: Okay. Time goes quickly here. Basically, it's a step back not to include prohibition of fees for permanent work. We believe that the bill has to be changed to include all of the employment staffing industry and to clearly prohibit the charging of fees for permanent placement at work as well as for temporary placement at work. My colleague at the Workers' Action Centre will talk about changes to information required.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be here.

LANNICK GROUP OF COMPANIES

The Chair (Mr. Bas Balkissoon): The next presenter is Lannick Group.

Please state your name for the record. You have 10 minutes, and if there's any time left after your presentation, we will allow questions from the three parties.

Mr. Peter Jeewan: My name is Peter Jeewan and I am the CEO and president of the Lannick Group of Companies. I'd like to thank the committee for taking the time to listen to me this afternoon.

First off, I'd like to say that generally we support the provisions of Bill 139. We do have an issue with section 74.8, paragraph 8, which prevents us from charging temp-to-perm fees, and we respectfully ask that you remove the section. I will attempt to support that request by telling you a little bit about our business.

Our firm specializes in placing accounting and finance professionals on a temporary and permanent basis. In

2008, we placed close to 200 accounting professionals on a temporary basis. Their average income was approximately \$130,000 on an annualized basis, with some making in excess of \$300,000. These individuals performed services that in most cases would have otherwise been provided by public accounting firms, and they did so for about one third of the cost that our clients would have otherwise incurred had they used public accounting firms. Generally speaking, the professionals we represent earn a premium to their peers in public accounting.

The talent pool that we represent is highly skilled and commands a significant wage in the marketplace. Recruitment agencies representing this type of professional provide Ontario's businesses access to much-needed skilled workers in a cost-effective manner while at the same time providing skilled workers with access to assignments which provide premium wages on an as-needed basis.

Contract professionals such as the ones we represent elect to work in this manner as a matter of choice and they utilize our service to augment their own marketing activities to find work when needed. They enjoy many choices in terms of the agencies they can work with, and in order for agencies like ours to be effective, we have to provide higher wages and better assignments than our competition, which of course directly benefits these workers. This is a crucial point: We operate in an efficient, effective marketplace that equally benefits both the employer and the worker.

Our company has been in the placement business since 1985, and our long-standing commitment to our business and our employees has always been predicated on the expectation of a fair and predictable business climate in the province of Ontario. While we applaud the government's desire to prevent the placement industry from exploiting workers and engaging in practices like charging fees to workers, we feel that the pending legislation is over-broad in its application and will have a seriously negative impact on our sector of the placement industry, our clients and the workers we represent.

As the committee is probably already aware, there are recruiting firms that charge fees in the manner prescribed by Bill 139. These firms tend to provide high volumes of general labour and clerical workers to their clients and they themselves typically employ individuals with clerical backgrounds to do so. The economics of a firm of this type are dramatically different than firms such as ours, and the market forces governing their relationships with the workers they represent are very different as well. Generally speaking, they operate in a buyers' market.

Firms like ours provide highly skilled workers and tend to employ other highly skilled workers. Most of our internal employees, myself included, have professional accounting designations. Our company invests in sophisticated tracking systems and continuous training and upgrading of skills, all in an effort to provide better service and greater value to our clients and candidates. All of this goes to say that we are a much higher overhead proposition because we service a market that

requires a much greater degree of intellectual capital and sophistication. Our market is a sellers' market, and the sellers are the workers we represent. They have all kinds of employment options available to them, and all that the proposed legislation will do is interfere with the fairness and cost efficiency that free-market competition generates.

Our fee structure, including temp-to-perm fees, reflects the balance of what clients are willing to pay for our services and the revenue that we must generate in order to recover past investments, make future investments and survive the cyclical challenges of our business.

The draft bill addresses temp-to-perm fees as a barrier to employment. I can tell you unequivocally that we have never encountered a situation where a candidate lost a permanent job opportunity because of a temp-to-perm fee. These types of fees are a long-standing and generally accepted part of an efficient fee structure in the industry across the world. They allow clients to pay for services in the manner that they intend to use them. Restricting our ability to charge temp-to-perm fees means that we will have to recover our recruitment/acquisition costs by charging higher hourly margins. This will boost the cost of knowledge workers to companies and may even result in reductions to these hourly workers as firms seek to expand margins to compensate for lost temp-to-perm fees. We maintain that these fees are the domain of the free-market system.

We view this anticipated impact of the legislation on our segment of the recruitment industry as an unintended negative consequence and respectfully ask that the legislation be revised so that this provision is dropped altogether. Failing this, we ask for clearly defined worker classes to be identified so that it takes proper aim and will achieve the intended effect.

Passing the legislation as it stands could put us and many other firms like us in full retreat from our expansion in Ontario. We are what I believe anyone would consider a success story, with a positive culture. We have been selected as one of Canada's top 50 employers and enjoy a reputation for excellent service. We've grown by 1,200% in the past four years, and a large part of our success resides in the very real investment we put into our internal staff and the development of innovative best practices that benefit both our clients and the workers we represent. None of this comes free, and the proposed fee restrictions would substantially reduce our return on investment and compromise our current model. This model has been welcomed and embraced by our clients, and they willingly pay our fees because they understand the value of accessing top talent as and when needed and for as long as they need them, including on a permanent basis.

Our segment of the marketplace is dominated by multinationals, companies like Robert Half, which is headquartered in California and operates all across North America and Europe. Multinationals like Robert Half do not have the same relative cost structure and are not making the same relative investment in Ontario. Their

executive jobs are located outside of the country and the province. They will be dealt a relative advantage over Ontario-only firms like ours as their branch economics will work better in the new environment that this legislation promises to create. Our company, with its Ontario head office structure, will be at a disadvantage. Needless to say, one of the net effects of this will be to discourage investment and innovation in an industry that needs both.

Today, our industry is at the leading edge of a massive recession, with many of our peer firms reporting a 75% decline in business activity. Many firms in our industry are fighting for their lives, and history says that more than half of them will go out of business before the economy rebounds. The proposed legislation will increase the damage that is already being wrought on our industry and will most definitely impact our company's profitability by at least 25%, putting into question the ability of many in our industry to make it through this current economic cycle without taking drastic action.

As entrepreneurs, we do not complain about recessions and we do not ask for handouts. Recessions usually weed out the weak and reward companies that innovate and invest in themselves intelligently. As it stands right now, this legislation will exacerbate the effects of the recession on all recruitment firms and will be especially punitive to firms like ourselves with heavy investments in Ontario.

We respectfully ask that you remove section 74.8, paragraph 8, which interferes with business terms, and refocus attention on employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

The Chair (Mr. Bas Balkissoon): Thirty seconds left.

Mr. Peter Jeewan: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time.

1400

WORKERS' ACTION CENTRE

The Chair (Mr. Bas Balkissoon): The next presenter is Workers' Action Centre.

Please state your name for Hansard. You have 10 minutes, and if there's any time left after your presentation, there will be questions.

Ms. Deena Ladd: Great; thank you. My name is Deena Ladd, and I'm the coordinator at the Workers' Action Centre. I want to thank the committee for letting me make a deputation today.

I just wanted to give a bit of context as to where the Workers' Action Centre comes from. We're a non-profit community organization that helps people with their problems at work. We operate a phone line in six languages where people can phone in for advice and get support if they're dealing with problems and if they've got violations of their rights. We do a great deal of education in the community across the GTA, and in fact

across Ontario, with workers looking for work and who are in work, on employment standards and labour market issues.

When we began nearly 10 years ago, we immediately started to deal with the practices of the temp industry, which for the most part has been quite unregulated. We've witnessed it, and on a daily basis we've had to deal with phone calls and questions and lots of people calling us from across this province who have been very concerned about the impact of an industry that has been allowed to develop a whole range of unfair business practices restricting workers from accessing full-time jobs, charging a range of fees, from transportation and equipment to finding work. We've had to, time and time again, help individuals access basic statutory rights under basic employment law such as public holiday pay, overtime pay, vacation pay and unpaid wages.

The context: Before this economic crisis hit, we had a situation where there's been incredibly huge growth of precarious employment in this country, and we've got a labour market where close to 40% of workers are now in precarious work. It's been incredibly shocking to us to see how workers can be treated completely differently in the labour market just because they're hired through a temporary agency. We've found that workers hired through agencies can be treated so completely differently that you can be denied the same pay, benefits and access to jobs as the workers that you're working alongside with, and there's the fact that you can just be gotten rid of in a moment's notice with no notice of termination even if you've been on an assignment for years.

These have been so many of the kinds of calls that we've gotten. We've been having lots of community meetings about this bill. We've been having lots of calls from many different workers across this province, and people are saying, "How can this be allowed to happen in the 21st century? How can I be restricted from applying to jobs at a company? How come I'm not treated basically like any other worker? How can this be allowed to happen?"

Really, all we're saying is that we're seeking a level playing field so that all employers have to follow basic employment standards and so that workers can have the confidence and protection of basic employment standards, regardless of who hires them. All we're really asking here is that we have an established floor of standards for everyone.

We were very pleased when Bill 139 was introduced, because we see this as a big step in that direction. We're very pleased that the government of Ontario is recognizing that our workplaces have changed, that there's a huge increase in precarious employment and that temp agency workers need protection from this whole host of unfair practices that have been allowed to flourish in our province, which workers are dealing with individually on a day-to-day basis.

Due to the time limits—we've obviously only got a very little bit of time—I want to focus my comments on three key changes that we'd like to see and get your

support for in Bill 139. It really is just trying to establish those fair standards, a fair, level playing field for workers.

One of the biggest issues and concerns, and of course we've been hearing about it all afternoon, is the employment legislation barrier that we'll be seeing in Bill 139 in hiring workers. Rightly so, Bill 139 prohibits agencies from imposing barriers on client companies hiring assignment workers, but it only makes those barriers illegal six months after the assignment at the client company starts. We really feel that this should be removed. When you've got the majority of workers who are working six months and less, this is going to be a huge barrier for them in accessing work. We hear time and time again of workers calling, saying, "I'm working here; I'm stopped from accessing a full-time job because of these kinds of barriers." I think, especially in this economic crisis, that the whole goal of our economy should be to try and find people employment. How can we allow restrictions on people's mobility in the labour market?

We have a whole host of government-funded services that are dealing with laid-off workers: employment search workshops, job development. These are government-run, community non-profit organizations that are doing the same work and would never be allowed to restrict someone's movement into a full-time job and charge a fee, yet this bill is actually allowing temp agencies to continue that. I think this six-month barrier on hiring will create a huge loophole that will in fact stop workers from accessing those jobs because, frankly, if an agency's income is made from placing someone on assignment and they get their fee through the hourly markup, why would they let that person go beyond six months? Just replace that worker at five and a half months with another one so they can continue to make their profit.

I think it's incredibly important that this be removed and that we don't put in legislation that someone's mobility in the labour market could be restricted by a fee. I think it creates a very dangerous precedent.

The second amendment we are seeking is on the information required. I think this is very critical, especially when you're dealing with people who are moving from assignment to assignment and really rely on basic employment standards for protection. Many of the workers we work with will never have access to a trade union and really do rely on employment standards to protect them at work. We think it's incredibly important that in the information provided to someone about their assignment, they are told what the duration of that assignment is. Temp workers are just like other workers: With any one of us, if we're applying for a job, our first question, of course, is, "How much am I going to get paid?" but then, "How long is this job going to be for?" I think it's totally reasonable for a temp worker to have that same information as any other worker. Temp workers have lives; they have families; they have dependants. They need to plan their financial stability. They've got bills to pay. I think it's only reasonable that they should have that

information included. So we would certainly request an amendment to ensure that the information is provided.

Another amendment that we'd like to suggest to that information is that the client company sign on to that information piece. Again, what we see on a daily basis is temp workers being put in the middle. The temp agency gives them a little bit of information; then they're told, "You'll get that information from the client company. Just show up at the back door and talk to whoever, and they'll put you to work." We want to make sure we have transparency of information. Anyone who goes on a job should have the information and they should know that the client company has that same information, so that the client company can't turn around and say, "Oh, no. We didn't say that you didn't have to work overtime," or, "We didn't say that this was the type of work you were going to do." We think it's very important for people's basic protection that the client company signs on to the information sheet, as well as the temp agency and the worker, so that there's no misunderstanding, no confusion about what the job is, how the job is going to be done, and the conditions of that work. We would like to request that amendment.

The third amendment that I wanted to talk about is the issue around termination and severance. I think that when the government announced it would be getting rid of the elect-to-work exemption for termination and severance—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

1410

Ms. Deena Ladd:—sure—we were very pleased with that, because it meant that, obviously, people could get paid public holiday pay. I think what's very critical about Bill 139 and what we're quite concerned about is that it's going to create special rules on termination for temp agencies. We believe that temp agencies should have to follow basic employment standards just like every other company in Ontario. Temp agencies argue that they are the key employer; well, they should have to follow the law and ensure that their employees have equal access to termination and severance.

Thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you very much.

COMFORT KEEPERS

The Chair (Mr. Bas Balkissoon): The next presenter is Comfort Keepers.

Please state your names for the record, and then you have 10 minutes. If there's any time left after your presentation, there will be questions from all parties.

Mr. Peter Drutz: My name is Peter Drutz. I'm the president of Comfort Keepers for Canada. I'm joined by my colleague Laurie Saunders. We appreciate the opportunity to speak in front of the committee today.

I'd like to start by telling you a bit of background about Comfort Keepers, because we represent a different industry than those you've heard from quite a bit today,

and yet are very much affected by this bill. At Comfort Keepers we provide personal support services, home-making and companionship to the elderly and to others who are in need of assistance with their activities of daily living. We offer our services primarily in private homes. We do some in retirement homes or long-term care or hospitals, but most of our work is done in private homes. We're a franchise company that is made up of small business owners who operate offices across Ontario. We employ hundreds of workers, and these are workers who have sought to make a career out of being home care professionals.

The services we offer are usually purchased either by a family member or by the direct recipient of the care themselves, and these services play a very important role in the well-being of our clients. The entire industry we represent, the private home care industry, complements public health care, as our services tend to improve the quality of life that our clients have and can often prevent or significantly delay the need for additional medical care.

We're very mindful of the existence of unscrupulous employers whose hiring practices perhaps subject very vulnerable employees to unfair treatment, who perhaps pay at or below minimum wage, and whose employees are really biding time until they can find a better, more permanent or higher-paying job. Therefore, we're very in favour of the elements of this bill that offer the range of protections that are presented for these kinds of employees. However, it's not what our company is about. Our staff work for us because they themselves are very committed to their profession of being home care professionals. They need and they want the kind of flexibility we offer. Many of the personal support workers we employ, quite frankly, have the opportunity, as an alternative, to work in long-term-care facilities or other institutions, and yet they choose to work for Comfort Keepers because we offer them the work-life balance that they want. We offer them the flexibility that they want, whether that's to take a two-week break from their work or whether that's to take a 40-week break from their work. That flexibility is core to our relationship with them.

So when you look at how we interact with our staff, we spend a considerable amount of time and money on recruitment, screening, training, and the safety of our caregivers. We treat our staff with respect and dignity in every aspect of our relationship, from how we manage them to the fact that we comply with all government regulations.

The nature of our assignments to various private individuals can differ quite widely. They can range, for example, from the short-term-care needs of a patient who might be returning from hospital to caring for a senior with Alzheimer's who starts off needing perhaps a few hours of care a day and eventually progresses to requiring around-the-clock care.

That's the background to what we do and the nature of our work. I'd like to address three areas of concern we have with the bill.

The first is the differential treatment of home care service providers under the CCAC, or community care access centre, contracts and those provided by private providers.

Comfort Keepers believes that private-pay services and those that are funded publicly should be treated equally under Bill 139. Therefore, our recommendation is that the government broaden and amend section 74.2 to remove that unfair playing field, and we put the language in there. The option of both private and public care is very important to Ontario residents and, quite frankly, nothing should systematically create an inequality between these two.

The second area that we looked at was the proposed amendments with respect to termination and severance. As you heard earlier, the bill establishes that an assignment employee is entitled to notice of termination and severance if they haven't been assigned to work for a period of 35 weeks. But I think it's very important to put into context the number of factors that could affect the length of care or service we provide to a patient or client. There could be substantial changes in the client's medical circumstances. There could be variances in business volume of the operator. There could be a change in mix of the kinds of clients we have who require different kinds of home care services. Really, it's in the best interests of both the caregiver and a home care company like us to be able to find assignments for the staff.

From the employee's point of view, periods of not being assigned are often at their request. Let me give you an example. During the summer, we very often will hire nursing students who want to do home care work over the summer period. Months later, or even in the following season, almost a year later, if they have an opportunity to work with us during school breaks or other times, then they want to stay on our roster and we want them to stay on our roster. They're not looking to be terminated and rehired, and that's the intent.

As well, the proposed 35-week formula is going to impose an increased administrative burden, and that's ultimately going to add cost to an already thinly margined business. It's also invariably going to lead to increased cost for private individuals, seniors, who often will now not be able to afford the service. That's unnecessary, given the fact that this change as proposed is going to force termination paperwork and records of employment for employees who don't want to be terminated and for employers who don't wish to terminate them.

The third area has to do with the notion of charging client fees for directly employing agency staff. Section 74.8 allows our client the right to directly hire a caregiver or employee without penalty after six months. I've previously commented on the fact that private home care companies have invested substantially in recruiting and in the ongoing training of these staff. We therefore believe that it really should be a matter of contract between the agency and the client, not a matter of employment law, as to whether those penalties are going to apply.

You've heard in earlier submissions today the notion that companies may want to take advantage of that and, five and a half months into the process, suddenly swap out one caregiver for the other. That's very contrary to the nature of the work we do, where so much of it is based on matching a caregiver with a private individual in their home. It would be ludicrous to assume that we would want to swap that person out to avoid a clause like this. Therefore, we recommend that this be eliminated. In the alternative, we would propose that the window be extended to one year.

In summary, we really have three areas of concern: the proposal with respect to the CCAC exception; the termination and severance clause; and last, the fees to clients for hiring staff directly.

The Chair (Mr. Bas Balkissoon): Thank you. We have about 30 seconds each. The government first. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much for appearing before us today. Do you do any business for the CCACs at all?

Mr. Peter Drutz: No, we don't.

Ms. Laurie Saunders: By choice.

Mr. Vic Dhillon: And the majority of your business is to individuals?

Mr. Peter Drutz: Yes.

Mr. Vic Dhillon: Okay.

The Chair (Mr. Bas Balkissoon): Thank you. Conservatives: Mr. Bailey?

Mr. Robert Bailey: Yes. Thank you for your presentation today. If the bill as written is implemented without the changes, would it seriously harm your business and similar businesses, do you feel?

Mr. Peter Drutz: Absolutely.

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Ms. Laurie Saunders: It would harm our business substantially. It would also harm the employees who work for us who want that flexibility to pick and choose assignments and who, in many cases, work for multiple agencies as well.

Mr. Peter Drutz: And indirectly it would harm the relationship between seniors in need of care and their caregivers that they've come to form bonds with.

The Chair (Mr. Bas Balkissoon): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: Pass.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair (Mr. Bas Balkissoon): The next presenter is the Canadian Union of Public Employees.

State your name for the record. You have 10 minutes, and if there is any time left within your 10 minutes, we'll allow questions.

Ms. Kelly O'Sullivan: It's Kelly O'Sullivan.

Ms. Stella Yeadon: Stella Yeadon.

Ms. Kelly O'Sullivan: I wanted to start by thanking the committee for providing the Canadian Union of Public Employees and myself, as a representative, with the opportunity to present to the committee on Bill 139. The focus for CUPE is to talk about the issue of the home care workers' exclusion from the severance and termination pay that's being proposed in this amendment.

CUPE represents more than 220,000 members across Ontario and over half a million in the country. We deliver services that range from child care, municipalities, emergency services—community-based—and other social services.

In Ontario, we don't represent a large majority of home care workers. In fact, the local that I'm from, CUPE 4308, probably represents the largest chunk of workers at about 300. In total, we probably represent about 500. In fact, the majority of home care workers are not unionized in this province. Because of our collective agreements, our workers do have access to severance and termination pay. The reason we're here today speaking out around this issue is that we don't think that that small group of workers who are unionized should be the only ones who have access to severance and termination.

Home care workers—I'm not sure how many of you on the committee are familiar with the type of work in this sector and the nature of the work—are among the nearly 40% of Ontario workers who would be considered contingent, contract and temporary workers. Oftentimes, the type of work that they do is lower-waged. The province has set a minimum of \$12.50 an hour. While that may seem reasonable compared to the minimum wage, that's not working on any guaranteed hours of income. You can have, as we have in our workforce, workers who have worked for 20 years. You may work 15 hours one week, 20 hours the next and 10 hours the following week. You oftentimes don't have benefits, pension plans, access to other health care provisions—even though you're considered a health care worker. So there are real challenges in this sector to begin with, and now, to add insult to injury, to take a specific exemption to severance and termination pay for these workers we find particularly frustrating, and we're calling for that to be removed from Bill 139.

In home care, the predominant workers are women. In urban centres such as in Toronto and Hamilton and other areas, they are predominantly racialized women and, as we've mentioned already, have very precarious working conditions. These precarious working conditions have been fostered through the competitive bidding process that's currently used in the province of Ontario, a process that has, as you know, been stalled and put on hold a number of times, but we still manage to think that somehow it can be fixed. I guess we'll see, in this next round coming up, how much further damage it creates for vulnerable clients and workers in the sector. I think that's very important, though. Because of the competitive bidding model, these are workers who greatly are in need of protection around severance and termination, because, for no fault of their own, the company they work for can

lose a contract. So there they are, no longer employed—not because of anything they have undertaken or done on their part; simply because a contract has been lost. They're now, as this bill looks at, going to be exempt from severance and termination.

That's a serious concern for us. I think that what we really want to see removed is section 74.2, which explicitly excludes a home care worker who is an assigned employee assigned to provide services under the contract with the community care access centre or doing work governed by a contract with a CCAC. These are entitlements that will be given to other contract workers once this legislation is passed. So it begs the question for us: Is this a purposeful withholding of termination and severance pay to CCAC-contracted home care workers directly related to a concern over liability of the government funder—as I said before today, the Ministry of Health and Long-Term Care—to pay these costs under a home care delivery model that is already exploiting workers through low pay and that fuels job loss?

The competitive bidding system means that home care workers lose their employment more frequently as companies lose contracts, and we're looking at a bill now that would exclude them from receiving termination and severance pay. This specific denial of termination and severance for home care workers, who, because of the nature of home care and competitive bidding, are subject to precarious employment and income instability through no fault of their own, we believe flies in the face of the provincial government's commitment to reduce poverty in Ontario.

So Bill 139 amendments are called for. It's unfortunate that the provincial government has, for the last six years, refused to stop the competitive bidding model. While it's in place, I think it's imperative that severance and termination have to be addressed.

Bill 139 provided the government with another opportunity to improve wages and working conditions for home care workers. However, as it's currently proposed, it once again fails home care workers and doubly punishes them. There's a fundamental unfairness here. The exploitation of home care workers must stop. They must be included in the new protections of Bill 139.

Even a Liberal government-commissioned report on home care competition written by the former Minister of Health, Elinor Caplan, recommended that home care workers receive termination and severance pay.

Home care workers should not be exempt from the new entitlements of termination and severance pay that, when Bill 139 is law, elect-to-work workers—except home care workers—will be entitled to receive.

CUPE Ontario asks for the following amendments to Bill 139: Delete section 74.2, which exempts home care workers under a CCAC contract in its entirety. We're also asking that section 74.2 of Bill 139 be deleted and the elect-to-work exemption be repealed, as I already stated. The amendment to that bill would ensure that home care workers are eligible for termination and severance pay. This is the same entitlement extended to other elect-to-work-status workers once Bill 139 is passed.

I would be remiss not to recognize the importance of our community allies who have supported the incredible work of Bill 139 coming into place. Our request for an amendment to this bill is in no way to diminish the importance of the changes that need to take place. Our concern here is specifically on the exclusion of home care workers.

Once again, when you look at it, it's kind of like, out of all the workers in the entire province we could choose, we found these particular workers to exclude. You have to ask yourself: Why has that been done and what are the reasons for that? From our perspective, representing home care workers—and I would think the majority of people who receive personal care from those workers would ask you the same question: Why are you excluding them from this right that's being extended to other workers?

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about 30 seconds, and we'll start with the Conservatives. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. I'll ask the question you were just asking: Why do you think the government put this exemption for CCAC home care workers into Bill 139?

Ms. Kelly O'Sullivan: I think our concern, as we alluded to in the statement, is that ultimately the CCAC is funded by the Ministry of Health. The Ministry of Health would have to be responsible, we would assume, for ensuring that that money is available to both for-profit and not-for-profit companies that provide home care.

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Mr. Norm Miller: So in other words, the reason they did it is that it would cost the government more money?

Ms. Kelly O'Sullivan: We haven't been told anything different. I'm not sure. I'd love to know why.

Mr. Norm Miller: That's probably correct.

Ms. Kelly Sullivan: If there's another reason, I'd like to hear it.

The Chair (Mr. Bas Balkissoon): Thank you very much. Ms. DiNovo.

Ms. Cheri DiNovo: Thanks for your presentation. There has been some news recently in the last couple of days—my questions to Mr. Fonseca about extending care and coverage to nannies, one of the most exploited groups in Ontario. This bill could do that quite easily. Would you be in favour of that?

Ms. Kelly O'Sullivan: Of course we would be in support of that. I think it needs to be extended to all workers in Ontario.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon.

Mr. Vic Dhillon: Thank you for your presentation.

Ms. Kelly O'Sullivan: Thank you.

ONTARIO HOME CARE ASSOCIATION

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Home Care Association.

Please state your name for the record. You have 10 minutes. If there's any time left, there will be questions.

Ms. Susan VanderBent: My name is Sue VanderBent. Good afternoon and thank you for the opportunity to speak today. I'm representing the board of the Ontario Home Care Association, representing over 50 home care organizations in Ontario and across Canada.

Overall, OHCA is supportive of the amendments to the Employment Standards Act, which are designed to further the government's overarching objective to promote and protect employment rights and to correct any specific situations in the temporary-help-agency sector, where workers are not treated fairly.

However, home care providers are not temporary help agencies that supply and assign employees to a host employer. There are identifiable differences between the structure of the temporary help agency and the home care provider specifically related to its labour practices and policies. This difference is due, in part, to the type of work with which the home care worker is entrusted and the needs of the vulnerable client populations served.

Home care providers are negatively affected by some of the proposed amendments within Bill 139, such as 74.8, where an organization is prohibited from contracting with clients for maintaining the ability to have a staff member in the home.

In the context of health care and, in particular, home care, which is a unique and growing place of work, it is vital to address ways to support the workforce and ensure success in human resource recruitment and retention. Members of the OHCA wish to maintain current employment practices that are beneficial in order to ensure that a growing number of Ontarians are able to stay independent and functional in their own homes.

The government of Ontario is committed to transforming the broader health care system from one that is episodic, acute and institutionally oriented to one that addresses the longer-term management of chronic conditions for people of all ages within their homes. Research shows that people of all ages want to receive care at home for as long as possible. Home and community care in all its aspects is acknowledged to be vital to the transformation of Ontario's health care system.

Publicly funded home care is intended to supplement the care provided by family. Publicly funded home care services in Ontario are coordinated through the community care access centres, or CCACs.

Privately funded home care is also purchased independently by families and individuals. This privately funded care assists with growing pressures to balance work, raise children and care for loved ones who might require more care than the current publicly funded home care system supports.

More and more Ontarians are choosing to purchase home care services privately as a supplement to the publicly funded system. There has been a corresponding increase in the number of private and corporate insurance plans to respond to this trend.

All OHCA members can provide home care services under contracts with all levels of government, community care access centres, insurance companies, institu-

tions, corporations and private individuals. OHCA members have a range of different types of corporate tax status.

The home care provider delivers care in the home through the work of regulated health professionals—that is, nurses or therapists—and also supports clients with personal care—which is bathing, toileting, feeding—and home supports: light housekeeping, transportation, companionship and meal preparation.

Home care recipients, particularly the elderly, often require regular and consistent care in the morning—to rise—and in the evening—to go to bed. There is a corresponding need for home care employers to ensure that there's a high number of staff available at both of these periods of time during the day, and that is to manage this fluctuation in the natural care needs of a client.

All home care services enhance quality of life, are cost-effective, and prevent unnecessary hospitalization, emergency department admissions and premature institutionalizations, therefore serving the broader goals of the Ontario health care system.

All home care providers in Ontario, regardless of funding type, bridge the gap between the various settings of health and social care, including the acute care hospital system, emergency rooms, supportive living, long-term-care facilities, hospices, and physicians' offices. These close linkages meet the client's needs in an individual and comprehensive manner and go well beyond physical and mental care to engage social supports as well.

Human resource strategies that work well for the institutionally based acute and long-term care sectors do not readily translate to the home and community care system, which is highly mobile, decentralized, and supervised remotely. This makes sense, because we are going to someone's home. The worker is not going to an institution.

There are unique aspects to providing care as a guest in someone's private home, which requires careful management to maintain a satisfied, safe and productive staff. This consideration is critical and fundamental to creating strategies designed to attract and retain adequate health human resources. In order to deliver the most responsive home care, flexible staffing models are required to ensure that staff are available to respond to fluctuations in volume assignment, particularly in the morning and evening hours, as required by the client population.

Home care workers do have access to health care benefits, travel pay and public holiday pay.

There are unique and differentiating characteristics of home care providers, including an ongoing, intensive relationship with employees over time to manage assignments in the home. Home care providers' employers have a responsibility for an ongoing process of assessing and managing the health and safety issues for staff in the home—and we run into work hazards such as ensuring adequacy of lighting, clearing ice and snow on walkways, clients who smoke, dealing with their animals, and dealing with any other persons in the home who may

not be the best for our workers. We have a lot of issues that we have to do in terms of maintaining health and safety.

We have to have specialized recruitment processes geared to suitability, aptitude and competency, specific to the needs of frail and elderly people in the home. We have to provide specialized training and educational programs geared to supporting clients. We provide detailed information to each employee prior to the delivery of home care services. We provide ongoing supervision and involvement of the employer in the work of the staff, and ongoing facilitation/collaboration with family caregivers and other formal caregivers such as family physicians—we make hospital discharge arrangements; we pick up medications for families at local pharmacies.

The initial recognition of home care services provided through the CCACs, as separate from temporary help agencies, within the bill is welcomed from a policy perspective. OHCA believes that publicly and privately funded home care services should be treated the same under Bill 139. In order to ensure the continued flexible and responsive provision of home care in Ontario, whether publicly or privately funded, or both—and that can happen; often, people are supplementing their publicly funded care with privately funded care, and that is happening more and more in the province of Ontario—the OHCA believes that one of the two suggested changes to section 74.2 should be considered.

Recommendation 1: The OHCA recommends that the government change section 74.2 to read: "This part does not apply in relation to an employee assigned by his/her employer to an individual person to provide professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994."

Alternatively, the OHCA recommends that the government change the section to add a part (c): "An employer of the assignment employee and an individual person, for the provision of professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994."

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With respect to regulation change related to termination and severance, the Ministry of Labour has indicated that with the passage of Bill 139, the government intends to revoke the elect-to-work exemptions related to termination and severance. As with the revocation of public holidays, there will be significant additional costs to be borne by the ministry and private funders, i.e. Ontarians, in order to address the proposed termination and severance provisions.

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Susan VanderBent: The OHCA estimates the costs to be between \$30 million and \$40 million for this industry alone. The OHCA recommends, along with many other groups in the business sector, that prior to proceeding with the proposed regulation change, the government undertake a full review of the potential ramifications and the full extent of the costs. Certainly, in the

event that the government determines to move ahead, OHCA recommends that all elect-to-work employees be considered as having a start date for these provisions effective upon the passage of the bill.

The Chair (Mr. Bas Balkissoon): Thanks for taking the time.

STAFFWORKS INC.

The Chair (Mr. Bas Balkissoon): The next presenter is Staffworks Inc.

Please state your name for the record. You have 10 minutes. If there's any time left after your deputation, there will be questions.

Ms. Sandra Sears: My name is Sandra Sears, and I'm the president of a staffing firm here in Toronto.

Staffworks makes its business out of placing candidates in temporary and permanent jobs across all sectors. We place clerical staff, warehouse staff, accounting staff and technology experts. One of my biggest customers is the Ontario government, actually.

I strongly support the objectives of Bill 139 as they relate to supporting the rights of workers throughout Ontario. As a matter of fact, one of the reasons I started this business and why I've been in the business for 15 years is that I get to see over and over again how what we do changes the lives of the candidates we work with. Not only do we help Ontario's businesses stay competitive, but we give thousands of Ontarians access to opportunities. There are many, many new Canadians who settle in Toronto looking for work, and many of these folks bring themselves to my office within days of arriving.

I take issue with two segments of the bill, and I'm going to talk about that in a minute. But before I get to that, I just want to talk about the issue of our fees being a barrier to employment. We've heard four or five people refer to our fees as a barrier, but I haven't yet heard a specific example of this in action. Actually, I feel that these examples are somewhat conspicuous in their absence. On the other hand, I'd like to give you a couple of examples of how we are actually not a barrier to permanent employment but a doorway to permanent employment for many, many Ontarians.

In the years between 2000 and today, Staffworks placed hundreds of temporary staff in the provincial government. These candidates are recent university grads, new mothers returning to the workforce after maternity leave and new Canadians arriving from countries like Tanzania, Nigeria, South Africa and regions like eastern Europe, countries where human and employee rights are not as entrenched as they are here.

At last check, 20% of the temporary candidates we placed in the government of Ontario were taken on to the payroll and are now members of OPSEU. These are talented individuals who would not have had access to the province's job opportunities without first being placed temporarily by Staffworks. I've got a few specific examples; I think that's important: Vinna Vong, a recent university grad, placed with the Ministry of Health, now

permanently with Economic Development and Trade; Orit Dobsky, a recent university grad, placed with Environment, now permanently with the Ministry of Health; Nic Flores, an immigrant from the Philippines, placed on temporary assignment with the Ministry of Health, did a spectacular job, now permanently at eHealth; Felix Silva, returned to Canada from Colombia wanting to start a whole new career, placed temporarily at the LCBO, and he's been there permanently for seven years, doing an exceptional job, promoted through the ranks.

Another striking example is the story about our candidate Zulficar. I won't talk about his surname or the country from which he came. Suffice to say that he came to Canada in 2000 and soon registered with us for temporary assignment. When he came to see us, we recommended, as we do with all of our candidates, that he register with more than one agency: "Cast your staffing agency net wide, and continue to look for work on your own." Luckily, though, we were the first service to offer this candidate a job that he felt was a good fit. It wasn't in his field of education, but he was motivated, driven and eager to prove himself. And he did, and after several assignments with us, he found a permanent job with a company that we'd placed him with months earlier. He had enhanced his resumé, improved his skills and become a well-qualified candidate for our client. He's since moved up the ranks as well, and has an excellent, stable job in a successful multinational organization. This would not have happened otherwise.

Since that time we've placed almost 75 employees with that very company, and over and over again this company pays us a small fee—not thousands of dollars, but they pay us a small fee in recognition of our work—to take our staff on to their permanent payroll. They're happy to do so. We get letter after letter from these employees, saying, "Thank you for giving me the chance." They go in there, they bust their chops, they get hired permanently and everybody's happy, but they wouldn't even know the company existed if it wasn't for Staffworks or my competitors, who introduce them to other temporary jobs.

Another example is Donna, a recent arrival from British Columbia due to some personal and tragic circumstances. She was looking for permanent work but she took a temporary job through us in the meantime. She's an exceptional executive assistant, and the president clearly recognized that and happily paid a significant fee to bring her on. She was going to get a job one way or the other, and this company recognized her talent. They are happy to pay some form of fee, one way or the other. So my point is that we are not a barrier; we are a doorway to employment.

I wanted to talk to you about our bill rates. Our temp rates that we pay our employees are over \$14 an hour. We just finished a project placing cashiers and shelf stockers at \$10 an hour, also over minimum wage. We don't even pay minimum wage. We can't; we just can't get the talented folks that we need. You'd be sure that if a Staffworks client employed my staff directly they'd be

paying them less and the employees would have to restart their job search from scratch when it was over. Instead, they may choose to take more jobs through Staffworks and have a much better chance of finding work that is suitable, that develops their qualifications or leads to a meaningful career.

My final two points deal directly with Bill 139. The first deals with subsections 74.8 (1) and (2). In subsection 78(1) there are 10 prohibitions, nine of which are great. But subsections (1) and (2) are an interference, a tool to regulate the legitimate and legal terms of business between me and my customers. We're on a slippery slope, in my opinion, once the government starts to regulate prices, time frames for payment obligations and other legitimate business arrangements between two businesses. What bank would get excited about financing a business that is at the mercy of government regulation—and, I might say, an overreaching regulation? Access to financing is a key element to the staffing business and to any business, really, and unilaterally interfering with and dictating our terms of business with our customers will make us a pariah to banks and investors. I ask that you remove 74.8(1) and (2), which interfere with business terms, and refocus attention on the employment-related issues, the employment agreements and employment terms, so that workers are never unfairly restricted from seeking employment with prospective employers.

The second and final point deals with continuance of employment, clause 74.4 (2)(b), where it says, roughly, that an assignment employee of a temporary help agency continues to be my employee even if he's no longer assigned to perform work. When an assignment employee finishes their assignment with Staffworks, they have choices and they do what's their best interests. I hope they will work for me again, but they may find another job, work for another staffing firm or go back to school. They may wish to stay home with their family, or maybe they now have the confidence to start their own venture. Bill 139 in clause 74.4(2)(b) says that an assignment employee of a temporary help agency does not cease to be my assignment employee because he's not assigned by me. Why in the world would I continue to be responsible for employer obligations to a worker who does not work for me?

I've done the math and my association has done the math, and there's no doubt that it will do serious harm to my competitiveness, my efficiencies and my industry. No other business, industry or international jurisdiction requires an employer to continue to take employer responsibilities for people who are no longer employed. The industry whose sole business is to put all kinds of people into all kinds of jobs will be debilitated by this clause. This will make Ontario quite anti-business and quite an anti-employment jurisdiction throughout North America and Europe.

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Just another point I wanted to mention: Over a year ago, China, in their movement towards a market economy, granted licences to Manpower and other staffing

firms to provide temporary staffing services—China. It seems to me that Ontario is moving in the wrong direction.

Therefore, I ask that you remove—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Sandra Sears:—clause (b) of subsection 74.4(2) talking about the cessation of work issue.

China—I think we need to move in the right direction.

The Chair (Mr. Bas Balkissoon): Thank you very much for being here.

COMMUNITY SOCIAL PLANNING COUNCIL OF TORONTO

The Chair (Mr. Bas Balkissoon): The next presenter is the Community Social Planning Council of Toronto.

Please state your names for the record. You have 10 minutes, and if there's any time left after your presentation, there will be questions from all sides.

Ms. Celia Denov: Thank you very much, and good afternoon. My name is Celia Denov, and I'm the president of the board of directors of the Community Social Planning Council of Toronto.

The Community Social Planning Council of Toronto is a non-profit agency engaged in research, policy analysis, community development and capacity-building work. As an organization committed to social and economic justice and the improvement of the quality of life for all people living in Toronto, and a member of the Good Jobs for All Coalition, we are encouraged to see the Ontario government taking action to protect the rights of temporary agency workers. The bill is both critical for temporary agency workers and a vital step in the province's movement on poverty reduction.

A disproportionate number of temporary workers are new immigrants, women and people from racialized backgrounds. We believe this act will work to provide greater protection for Toronto's working communities. For these reasons, we fully support the implementation of Bill 139.

The Ontario labour market has seen a rise in the amount of part-time, temporary, self-employed and contract work; nearly one in three jobs in the province are of this precarious nature. From 1997 to 2005, the number of temporary employees in Toronto increased by 68%, and in 2006, they accounted for 13.4% of all Toronto workers. According to Statistics Canada, in February 2009, Ontario led the country in the number of workers who held a temporary job, at 547,200; Quebec came in second with 362,600. It should come as no surprise that the primary channel for placing employees in such work, the temporary help industry, has grown and profited enormously over the years, providing employers with temporary workers in nearly all sectors of the economy.

There are nearly 1,000 temporary help agencies operating in Ontario. The rapid growth of this industry has gone largely unregulated, particularly due to the previous government's repealing of the Employment

Agencies Act in 2000. Ontario's outdated Employment Standards Act has not kept pace with these dramatic changes in the labour market, and as such, we are seeing increased incidences of workers who are being unfairly treated and their employment rights violated. Agencies have taken advantage of this fact and have reaped millions off the backs of hard-working Ontarians. This type of work has also proliferated employment inequities, with temporary workers earning 40% less than their permanent workplace counterparts, with little or no benefits.

The temp industry maintains that it is simply responding to the demands of employers by providing them with a pool of flexible workers and that any government regulations and intervention would only impede job creation, hurt business and are contrary to the principles of a free-market system. However, these employment agencies have already imposed their own forms of interventionist and regulatory policies via restrictive contracts and rules about who can work where, when and for how long. There is a growing consensus emerging from workers, labour unions, communities and advocates that the industry has clearly not been able to self-regulate and that the provisions of such employment placement services have come at a great cost by completely neglecting human and labour rights and stifling labour market participation and mobility.

Research demonstrates that workers making use of temporary help agencies are facing discrimination, having their employment and human rights violated, and are being confronted by numerous barriers to gaining stable and permanent work. Due to their temporary status, workers find themselves needing to pay fees to agencies if they wish to be hired by the client company, being denied public holiday pay and being misclassified as independent contractors. Thanks to the effort of the government, temporary workers who have been categorized as "elect to work" are now able to collect holiday pay. The province is moving in a positive direction, yet much more needs to be done.

Bill 139 will work to reduce barriers to permanent employment, eliminating fees that pose immense strains on vulnerable low-income workers and guaranteeing that employees are properly informed about their work assignments and their basic rights afforded to them under the Employment Standards Act. These rights to "just and favourable conditions of work" are also enshrined in the UN's Declaration of Human Rights. Any legislated changes should not be viewed as a threat to employment agencies but, rather, necessary measures to ensure fairness and adequate protection for all workers.

While we strongly support the substance of the bill and its objectives to expand the Employment Standards Act to protect temporary workers, some sections of the bill can be strengthened to more effectively meet these objectives. We at the Social Planning Council of Toronto therefore support the following recommendations:

(1) Inclusion of all employment agencies: We would like to see the language of the bill expanded to include

not only temporary help agencies but all employment agencies that are in the business of staffing employers or helping workers find employment, both temporary and permanent. This will ensure that no agency is imposing fees onto workers for any employment-related service, a regulation that had previously been in place under the Employment Agencies Act.

(2) Barriers to direct employment: The bill as it currently stands does not effectively remove barriers to permanent employment and direct hiring, as agencies are allowed to charge fees to the client company during the first six months of a work assignment. This essentially creates a large loophole for the employment agencies, as they may remove a worker from a work assignment just prior to this six-month period and replace them with another worker in order to avoid direct employment by the client company.

During this time of economic hardship and increased job loss, it is counterproductive to purposefully erect barriers for workers who seek stable and lasting employment. Access to permanent employment would benefit not only workers themselves but the province as a whole, with increased productivity and tax revenue to support much-needed social programs. We therefore urge the government to abolish the six-month period during which temp agencies may charge fees.

(3) Information on work assignments: Workers are often left in the dark regarding the basic details of their work assignment, including the very name of the company they'll be working for. Bill 139 will remedy this by ensuring that agencies provide in writing the name of the company, contact information, hours and description of work to be performed, and information regarding wages and pay periods. This will allow workers to have access to important information needed in order to manage personal and family time, as well as to enforce their employment standards rights in the case of any disputes that may arise.

We also ask that this section be amended to include the start and expected end date of work assignments and any markup of fees between what a company pays an agency and what the agency pays the worker; and to require client companies to sign such a document, to ensure transparency and accountability.

(4) Termination and severance: The misclassification of employees as "elect to work" that has been imposed by temporary agencies onto workers has been used, until most recently, to deny workers public holiday pay. It is also being used to deny workers termination and severance entitlements. We ask that the government immediately move to remove the "elect to work" exemption for termination and severance benefits.

(5) Equal pay for equal work: The income disparity between a temporary worker and their permanent employee counterparts urgently requires the inclusion of an equity clause within the bill. It is unacceptable that a temporary worker performing the same tasks and duties as a worker who was hired directly by the company receives a substantially lower income, with no benefits and little job security.

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The Chair (Mr. Bas Balkissoon): You have 30 seconds.

Ms. Celia Denov: Okay. The last thing is penalties: Stricter enforcement of the Employment Standards Act and stronger penalties for violations are needed to ensure that agencies and client companies are abiding by both current and future legislation.

We applaud the Ontario government for its actions thus far and look forward to seeing some of these amendments and suggestions in the final bill.

Thank you very much for the opportunity to appear before you.

The Chair (Mr. Bas Balkissoon): Thank you very much. The committee will now recess and will reconvene at 4 o'clock.

The committee recessed from 1500 to 1600.

METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

The Acting Chair (Mr. Lorenzo Berardinetti): I'd like to call the committee back to order.

We are now going to hear from our next deputation on the Standing Committee on the Legislative Assembly. This is the 4 o'clock deputation, the Metro Toronto Chinese and Southeast Asian Legal Clinic.

Good afternoon, and welcome. We've been going through a very quick list here, so there's 10 minutes. If there's any time left from your presentation, we'll allocate it to the three parties. You have 10 minutes. Please go ahead.

Ms. Avvy Go: Sure. My name is Avvy Go and I'm the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic.

Ms. Uzma Shakir: My name is Uzma Shakir. I'm representing the Colour of Poverty Campaign, and I'm endorsing the presentation. We're making a joint presentation.

Ms. Avvy Go: Actually, the clinic is also a member of the Colour of Poverty Campaign, which is to look at the issue around the racialization of poverty in Ontario. But also from a legal perspective—because we serve a lot of clients who are immigrants, workers working in low-wage jobs, and many of them will be hired through temporary agencies—we're aware of some of the issues that they face.

For our clients, the immigrant workers, an employment standards violation is a norm rather than an exception. We also want to emphasize that, as a general rule, there's always a power imbalance between an employer and an employee, but that imbalance in the situation of immigrant workers is exacerbated by the fact that they are immigrants and they are workers of colour. We highly recommend, as a starting point for any legislative reform, that you need to understand that.

In the context of temporary help agencies, these agencies very often are a hindrance rather than a help for our clients with respect to their rights and the protection

of their rights. I'm not going to go through the examples. I've listed some of them in my presentation.

For all these reasons, we do commend the government for taking the first step in closing the protection gaps between workers who are hired through temporary help agencies and those who are not. However, we do want to emphasize that it's a mistake to think that Bill 139 is going to end all forms of unfair and discriminatory treatment faced by these workers. The bill leaves unresolved many of the fundamental problems faced by our clients and other workers who are vulnerable.

To begin, we think that there is actually a false dichotomy or false distinction between employment that is found through temporary help agencies and employment that is found directly with the employer. It's a false distinction because our labour law, our employment standards law, does not, in fact, guarantee any right to a job, let alone a permanent one. The reality is that many workers in Ontario find their jobs through temporary help agencies, and employers have the incentive to allow these agencies to continue because they see it as a way of saving money. The agencies are acting in the front while they access workers who are actually doing the exact same kind of job the permanent employees do, but they can get away by paying them less.

We think that the government has an obligation to make sure that the law, particularly the Employment Standards Act, does provide minimum protection to all workers in the province. As such, in the reform of this act, to enhance protection for all workers, we believe that one of the most fundamental principles is that any changes that are made to the act have to eliminate any and all distinctions between workers who are hired through temporary help agencies and workers who are hired directly by business clients or client businesses of these agencies.

With that in mind, I'm going to address some of the specific provisions in the bill. The very first problem created by the bill is, because it deems the temporary help agency as the employer rather than the client businesses, for the workers, that creates a problem for all the reasons I talked about, but also because you have to get around that. You try to make distinctions and you have to get around some of the provisions that are otherwise equally applicable to workers who are hired directly by the client businesses. A lot of times, you'll see that the workers are treated differently, whether it's the issue around public vacation or whether it's severance pay or termination pay. You kind of have to artificially give them less rights in order to fit in the model of the employer.

To make it equitable and to ensure there's equality, one of our recommendations is to eliminate the differential treatment among these various workers when it comes to termination pay, severance pay, public holiday pay and so on. We think that the ultimate solution is to make the client the employer. But even if you don't want to do that, there are still ways to eliminate differential treatment. Of course, some people suggest that you just

get rid of the elect-to-work exemption. That's one way. But look at the bill itself and just remove any of the provisions that create that distinction.

Our second concern is around the issue of barriers to permanent employment. I'm sure you've heard from others about this issue. I'm also sure you've heard that the six-month restriction is going to be a problem, because it will render the prohibition to permanent employment meaningless because you have that six-month provision in there. So we suggest that the six months should be removed so there's absolutely no restriction of any kind on businesses to hire workers directly who are on assignment from temporary help agencies.

The third issue, and I'm sure again I'm repeating some of the things that you've heard, is around the narrow definition of temporary help agencies and the narrow scope of work arrangements that are being regulated through the bill. That creates a huge gap in terms of the type of services, and also the kinds of fees that are being charged by many of the temporary help agencies out there, as well as by agencies that are not currently covered by Bill 139, including recruitment agencies that recruit live-in caregivers from overseas. I must say that I'm very disappointed to hear reported comments made by our Minister of Labour about his reluctance to take action to regulate these unscrupulous recruitment agencies. We believe very strongly that all employment agencies, whether it's for live-in caregivers, whether it's employment agencies or temporary help agencies, must all be regulated—if it's not in this bill, it must be in another kind of bill—so that none of them can get away with charging fees to any workers who choose to work in Ontario.

The next issue I want to talk about is the issue of liability for violations. Again, I go back to my theme about who the employer is. Even if you don't want to treat the client businesses as employers, you should hold them liable for any violations that have been created by the temporary help agencies that they hire to help them find workers. At the very least, it has to be a joint liability. I think that's the only way to make sure that there will be no temporary agencies trying to get beyond the law and do something illegal. Employers who do not want to use these agencies can just simply not use them. If they don't want to be held liable, then they should damned well make sure that they find agencies that are not going to break the law. The only way you make sure that will happen is to hold the client businesses jointly liable.

In the interest of time, I'm going to ask you to look at the rest of our submissions, which talk about the information. We think that there has to be a clear timeline on when the information is going to be given out. Just saying "some time afterwards" is not going to do it. You're going to have to give a timeline, like 24 hours or 72 hours, as to what kind of information needs to be given to these workers. The kind of information that is given out must include the term of the assignment that is given to the worker.

In conclusion, I just want to congratulate the government for introducing the bill, but it's definitely not enough. A lot more needs to be done to ensure that there is equal protection for all workers, regardless of how they're hired, the nature of their job and the nature of their employment relationship with the business that hired them.

Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti):

Thank you. That was very well timed; it was 10 minutes exactly.

FAMILY SERVICE TORONTO AND CAMPAIGN 2000

The Acting Chair (Mr. Lorenzo Berardinetti):

We'll move on, then, to our next deputation, Family Service Toronto and Campaign 2000. I have Jacquie Maund, campaign coordinator.

If you could state your name for Hansard, again, the rules are basically 10 minutes to make your presentation. Any time left is split between the three parties for questions.

Ms. Jacquie Maund: Good afternoon, everyone. My name is Jacquie Maund, and I'm the coordinator of Ontario Campaign 2000. I also do work at Family Service Toronto.

Campaign 2000 is a coalition of 66 partner organizations across the province committed to working together to end child and family poverty. Our name dates from the unanimous House of Commons resolution in 1989 to end child poverty in Canada by the year 2000.

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Our work has shown over the years that low wages and poor working conditions in Ontario are part of the reason we continue to have a high rate of child and family poverty in this province. We commend the government for its announcement of a poverty reduction strategy last December, with an initial target to cut child and family poverty by 25% by the year 2013. We know that addressing the challenges faced by the working poor in Ontario is a key part of that strategy, and it must be a key part to achieve effectiveness. So we are very pleased that the government has introduced Bill 139, which aims to improve fairness and protection for temp agency employees.

We know that working conditions faced by temp workers contribute to Ontario's poverty problem. Temp agency workers, on average, make 40% less than their co-workers who are hired directly; they have few employment benefits; and they face higher health risks due to employment strain.

Bill 139 makes some important changes to the Employment Standards Act for temp workers, but we'd like to highlight four amendments that we would like to see in this bill.

(1) The government should pass immediately a regulation to the Employment Standards Act to ensure that temp workers—that is, those who are classified as "elect

to work”—can receive termination and severance pay, as per the rules that apply to other workers right now. We appreciate the government action that was taken recently to ensure that temp workers can receive public holiday pay; that was an important step forward. We feel that, given the current economic downturn and rising unemployment, it's crucial that temp workers have access to all of the income to which they are entitled in order to feed their families, to pay the rent and to prevent them from falling onto social assistance rolls.

(2) We call for a removal of the six-month exemption to prohibitions on barriers to employment, so that temp agencies cannot charge companies a fee if they decide to permanently hire a temp worker within six months of their temporary assignment. The current design means that there's an incentive for temp agencies to remove a temp worker from a client company just before the six-month time limit, if the worker has not been hired permanently, and replace him or her with another worker in order that the company might recoup the fee if they were hired. This design, implicitly or explicitly, serves to trap temp workers in temp work for a period of less than six months. The temp agency industry may argue that they will be hurt financially if they cannot charge companies for hiring workers, but research in other jurisdictions where this happens shows that this is not the case.

(3) We call for a broadening of the definition of temporary help agency so that agencies providing temporary and permanent staffing placement and services cannot charge fees. This would mean that temp agencies would not be allowed to charge fees for services related to permanent job placement. For example, cleaning companies would not be allowed to misclassify workers as independent contractors and then charge fees for work assignments. Such fees clearly cut into the income and make workers even poorer.

(4) We ask that you not exempt home care workers under contract to community care access centres from Bill 139. Home care workers are notoriously low-paid, with few benefits, little job security and little income security. They should not have to wait three years for entitlement to termination and severance pay, as is currently indicated. It's particularly hard to attract and maintain personal care workers, yet our aging population means that all of us will probably at some time need service from health care workers and personal care workers.

If the changes proposed in Bill 139 do not extend to home care workers, we feel it will further discourage people to enter this field or to stay in this field when they can get greater labour protection in other occupations. We echo the call of the community care access centre procurement review committee in 2005 for protection and enhancement of workers' rights with part-time and casual home care workers being protected under the Employment Standards Act.

Just to conclude, Campaign 2000 believes that Bill 139 is an important first step in updating Ontario's Employment Standards Act. We call on the government to

continue to make progress on its commitment to reducing poverty in Ontario by amending the bill to strengthen it and ensure protection for people in low-paid, precarious work.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about four minutes left, so we'll just work our way around the table. I don't know where we left off last in the rotation. We'll start perhaps with the Liberals, for a minute and a half each.

Mr. Vic Dhillon: Sure. Thank you very much, first of all, for your presentation and for being here this afternoon. There's been an argument made that some provisions in Bill 139 would put an undue burden on business. What do you have to say to that?

Ms. Jacquie Maund: My understanding is that what we're seeking here, ideally, is a level playing field for employers and for industries, so by requiring temp agencies to live up to some of the requirements that are made of regular workers, of workers who are hired directly, that, in fact, levels the field. It ensures a level playing field for all employers.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to the Conservatives, Mr. Bailey.

Mr. Robert Bailey: Two questions, if we can cover them both: The reason why the CCACs were exempted—any idea on that, kind of quickly?

Ms. Jacquie Maund: It's my understanding that the CCACs report in some fashion to the Ministry of Health, so it's my guess that it basically saves money for the Ministry of Health if health home care workers are not enabled until three years' time to have access to termination severance pay.

Mr. Robert Bailey: Okay. The second question, if I could: We had previous deputations made in the first session. A number of people talked about people going from temporary to permanent. This person who made the deputation to us listed numerous people, with names and everything. Would you think that was the exception rather than the rule, in your opinion? Does that not happen from time to time, or was that just an exception?

Ms. Jacquie Maund: My understanding is that the majority of temporary agency workers are actually hired for a period of less than six months so that they remain in temp work. They circulate from temporary contract to temporary contract, but I would stand to be corrected if other people in the audience have different factual information.

The Acting Chair (Mr. Lorenzo Berardinetti): For the NDP: Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for the deputation. A question: In the last couple of days, there's been a lot of news about the exploitation of nannies and nanny agencies. It would be very simple for this bill to extend coverage to them by simply, as you've said, calling for "employment agencies," not "temporary agencies," so two words might extend coverage to them. Would you be in support of such a move?

Ms. Jacquie Maund: Yes, we would.

Ms. Cheri DiNovo: Okay. That's number one. Thank you for that.

Also, there was something raised by another deputant about equal pay for equal work. This is part of the European Union's legislation, so that if you work two hours or you work 40 hours, you should be paid the same hourly rate if you're doing exactly the same job. Does that sound reasonable to you as well?

Ms. Jacquie Maund: That sounds reasonable to us, yes.

Ms. Cheri DiNovo: Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation.

ALLSTAFF INC.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, AllStaff.

I have three deputants listed here. Perhaps you could just list your name and title.

Ms. Lisa Hutchinson: My name is Lisa Hutchinson and I'm the president of AllStaff.

Ms. Christina Drigo: I'm Christina Drigo, the director of operations.

The Acting Chair (Mr. Lorenzo Berardinetti): Good afternoon. You have 10 minutes, and if there's any time left at the end, we'll ask questions.

Ms. Lisa Hutchinson: By way of introduction again, my name is Lisa Hutchinson and I am the president of AllStaff. We're in our 10th year of business and we are in the employment industry. We have offices located throughout Ontario, in London, Cambridge and Markham. I'd like to thank you for allowing me the opportunity to speak in front of you. It's a tremendous honour.

First, I'd like to begin by acknowledging that there are many positive aspects that I think we can all agree upon in the bill, and we are in favour of the spirit of the bill. However, there are two specific areas of the proposed bill, technical shortcomings that give me grave concern. As a matter of fact, they gave me such grave concern that I got in my car, I drove 300 miles, and I overcame a fear of public speaking just to talk to you today about this.

The first is continuance of employment, the never-ending employment obligation; and the second is conversion fees, which is interference with our business contracts.

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Employment agencies offer a free service to candidates and workers, and we're a quick and efficient link to employment—we're quick access to employment. We are a valued service to the thousands of companies in Ontario that rely on flexible staffing to address periodic surges in their employment requirements.

Furthermore, if Bill 139 is successful and passes in its entirety, these two issues are inflationary to the nth degree and will virtually eliminate any flexibility every employer or business in the province of Ontario has in meeting any temporary or short-term employment needs. Further, it will destroy the entire employment staffing

industry. And this is just the beginning. This will not increase employment, but will cause less, both in terms of traditional and non-traditional employment. Additionally, it will make companies less efficient and increase administrative costs, thereby decreasing their competitive edge over companies located anywhere but Ontario.

As an example, a company has some sales reps—let's use the automotive industry that's suffering tremendously right now—and their sales reps go out and get an account that's not for permanent, full-time work. Let's say it's for a short-term period of six weeks. They don't have the manpower to have the kind of HR department that can keep a pool of people—let's say they need to bring on 50 people. So they'll come to a staffing agency, if, that is, we still exist—and I will submit respectfully that if parts of this bill do go through, specifically the two points that I mentioned, it will make us highly uncompetitive, and I fear that we will go bankrupt. We just won't be able to afford what's being proposed.

An employment agency often employs people in various job transitions, which results in minimizing their need of social programs and the social safety nets. Some of these jobs do become permanent—and as a result, we were a quick link to full-time work.

There seems to be a misconception that our objective in life is to start a staffing agency offering temporary staff and then pay those people as little as we possibly can, possibly even under minimum wage, which I've never heard of in my 13 years of doing this. There are unsupported statistics being floated around the room, and I want to bring that to your attention. That's very important to understand. Our mission is not to find minorities and find people and take advantage of them. Our purpose, our *raison d'être*, in this industry is to match employees with employers. That's what we do. There's nothing sinister about it. There were certain comments made earlier about unscrupulous activity. I find that a tremendously offensive and inaccurate statement.

There are a lot of people who prefer temporary employment. To that point, there are students, there are parents—me being one of them—there are artists. I'll give you a specific example. We have a baritone performer, and in between gigs he comes to us, and we supply him around his schedule. So, for him, the temporary scenario works. Even highly skilled individuals such as IT professionals and engineers prefer to pick up assignments due to flexibility of work. A case in point would be retired individuals, as well, who are picking up extra work in between being a snowbird. So the assumption that temporary work is a negative would be incorrect. For many, it's preferred.

This bill, in the two parts aforementioned, could potentially just destroy our industry; and thereby our company and all others like it, in its wake, could significantly increase the costs to all the social safety nets.

Employees working on temporary assignments will often transition into another assignment with very little disruption in employment when using a service such as

ours. This is because of the nature of agencies and the ability to provide employment and a number of clients. For instance, sometimes we have a pool of millwrights coming off one assignment and they're able to go to another assignment. Instead of filing for EI and drawing upon the system, we've got them as productive, tax-paying, revenue-generating individuals. Without our industry, these people would be left to their own devices to find employment in a system already ill-equipped to assist them.

I just don't think that it's truly in the best interests of the people of Ontario to put these two particular parts through.

To be clear, again, in 13 years, I have never heard of someone being charged to work. I've never seen it; I've never heard it from our competitors. Maybe it did exist, but I just don't think it was to the capacity that it has to be put into the bill, truthfully.

Our clients are our customers. Our customers are always the plants, manufacturers, insurance companies—those are the clients. They pay our bills, and they pay our bills to put them in touch with qualified, pre-screened, pre-assessed, pre-trained and pre-referenced individuals who are work-ready.

The current financial impact of the public holiday pay—and don't get me wrong; this is something that we approve of, but we want you to be aware that there's a humongous financial cost burden to companies.

The Acting Chair (Mr. Lorenzo Berardinetti): Sorry to interrupt. Could you just step a little bit back from the microphone? Just a little bit, for the purposes of recording Hansard.

Ms. Lisa Hutchinson: Oh, yes, sorry. Of course.

The Acting Chair (Mr. Lorenzo Berardinetti): It's okay. Everything else is fine.

Ms. Lisa Hutchinson: All right, fair enough.

For instance, the first public holiday, the Family Day: This represents general labourer costs, because costs are different, depending on whom we place, but let's just say a general labourer. That added another 5.93% of costs, which represents almost a 27% reduction in our gross profit, right off the hop.

This holiday pay didn't just increase the wage but the entire payroll burdens and remittances that accompany it. So I'll use \$10 an hour—not that people are getting \$10 an hour; it's just a super-simple number to use. In addition to that, we have to pay, within the rate category, the WSIB remittances, the CPP, the EHT, the EI and the federal taxes. So that's what resulted in that 5.93% increase.

We employ over 1,000 individuals a year. We're not Adecco; they're a phenomenal organization, a decent competitor, and they employ a lot of people. But 1,000 individuals a year in this corridor—it makes a dent. Many of them we were able to match—just by their accepting a temporary assignment, they were transitioned into the temp-to-perm, just as a result of taking temporary work.

The average paid worker was \$14.83 per hour. That's a far cry from the pittance—certain workers' action associations would have you believe that we pay less than minimum wage, which is ludicrous.

The actual dollars paid out for Family Day—for that one day—was about \$10,000 in payroll and associated burdens. We've seen a 30% drop in our business recently. Add to this the uncertainty to future costs, given the proposed implied continuance of employment for temp workers who were not employed at the time of the holiday, and the proposed pay in lieu of notice and severance, which, by the way, would apply to no other company or industry but the employment industry which provides for temporary employment.

If I could give you an example of—

The Acting Chair (Mr. Lorenzo Berardinetti): You have about 30 seconds left.

Ms. Lisa Hutchinson: Oh, you've got to be kidding me. All right. Well, I'm going to go right to the punch, then.

What we're asking is no codification of implied continuance of employment, so that you strike 74.4(2) of Bill 139, and that regulating business contracts, you just strike 74.8, paragraph 8, sections 1 and 2.

And I had a killer example, for the record.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much. We received your submission as well.

Ms. Lisa Hutchinson: You're welcome.

TORONTO AND YORK REGION LABOUR COUNCIL

The Acting Chair (Mr. Lorenzo Berardinetti): Our next deputation is the Toronto and York Region Labour Council, Mr. John Cartwright, president.

Mr. John Cartwright: Good afternoon, Chair and members of the committee.

The Toronto and York Region Labour Council represents 195,000 women and men who work in every sector of the economy. We're pleased to be here to present on Bill 139.

Our understanding of this issue comes from the experience of our affiliates in construction, manufacturing, hospitality, building services and contract cleaning and in home care.

I'm a construction worker. Our industry, by its nature, is about temporary work. A foreman I used to work for had a great saying: "Come on and hurry up on that job. The sooner you finish, the sooner you get laid off." The nature of it is, when we finish a building, we move on.

We come from temporary, but there's a unique difference between that experience in a very vibrant and important industry in Ontario's economy and the massive spread of temp agency work into every other sector of the economy.

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The previous deputant talked about the role they play in matching workers with job opportunities. That used to

be done by a public agency called Canada Manpower efficiently and effectively. The thing is, when somebody got referred to a position by Canada Manpower, they got the full wages and benefits that were on offer by that employer.

What we're seeing with the scourge of the spread of temporary agency work is that the consequences of the change from that being a public sector aspect of the labour market to one that is now being privatized through temp agencies are that the vast majority of workers do not get equal pay and equal conditions with those they're working beside. I think the committee should be looking at the basic principle: What is wrong with somebody going to work in a workplace and having the same wages and benefits as the person who is doing exactly the same job as them, who they're sitting beside or standing beside on an hourly basis?

So while we say that Bill 139 is an important step in curbing some of the worst abuses that exist in the current system, it is nowhere near the answer that's needed to deal with temp agency work and its erosion of stable, secure jobs. Let's be clear. Major industry has turned to temp agencies to replace permanent, full-time decent jobs with temporary precarious jobs. The literature shows that Magna, one of Ontario's largest manufacturers, maintains at least 15% of its entire workforce through temp agencies. So they go to agencies, as the one you've just heard from, and say, "Send me a millwright," rather than putting an ad in the paper and saying, "We're paying \$32 an hour plus benefits for a millwright." The difference is that that person, when they go and work there, has no sense of security, no sense of rights as a permanent employee.

We're going to suggest that Bill 139 has to have a number of things: One, that it includes temp agency workers under the current termination and severance pay requirements in the Employment Standards Act; secondly, that it should remove the six-month period where agencies can charge companies for hiring a worker; thirdly, that it should be amended to ensure that temp agency workers are informed of the duration of their contract. It's not right that people get told, "You're going to go and work at a plant in Scarborough. We have no idea how long you're going to be there." A worker has to choose what they're going to do with their job offers. One of my own family members relies on temp agency work in the summers and doesn't know which temp agency to respond to if there's a job offer because it might be two days' work or it might be four weeks' work.

Bill 139 should state if there's a health and safety committee at the client company. Temp agencies and their client companies must inform temp workers if there's a health and safety committee in that workplace so that workers know how to avail themselves.

We believe strongly that home care workers should be covered by the changes to the Employment Standards Act found in Bill 139. Elinor Caplan's report some months ago reviewed the issue of visiting home care

workers and noted that now over half of the employees in that entire sector are denied vacation pay, holiday pay and sick pay because they're working as precarious employees rather than stable, long-term employees within that sector. That is an outrage, that those people, who are providing those vital services to our seniors, those who are sick and those who are disabled, don't have the same rights to the decent employment standards that the rest of us do.

Bill 139 should officially recognize the temp agency industry operates in a tripartite manner with an agency worker having two employers—the agency and the client company.

Then we say very clearly that where there is a collective agreement in place in the client company for workers doing similar work, temp agency workers should be covered by that collective agreement. We have more and more situations these days as people are trying to form a union in their workplace where a larger and larger number of those people work for temp agencies. Then, when they try to bargain a first collective agreement, it becomes a strike or lockout issue whether or not all "people" working in that place will belong to the union and be covered by union wages and benefits. The law should step in here and say that if people are working in a unionized workplace through temp agencies, they should have all the rights and conditions of that collective agreement.

Where there is no collective agreement in place, the law should say that those people should receive the same wages and benefits equivalent to those of workers performing equivalent duties. That's the spirit of the legislation that is in a framework position of the European Union, endorsed by a number of countries—that if you work in that workplace, within 60 days you must be paid full wages and benefits comparable. Doesn't that make sense? If the value to the employer, to the company, is X dollars and benefits, why should somebody be paid less than that? Why should the government of Ontario abide a situation where more and more of our working people are being denied those wages, those benefits?

Last July, the news covered the valiant struggle of 2,400 auto parts workers in Vaughan working for Progressive Moulded Products who lost their jobs. Suddenly on July 1, the plant shut down. They were owed severance pay. They didn't have a union, but they blockaded that plant because they wanted to try to get their severance pay. They haven't gotten the severance pay yet. They certainly got the attention of governments. They got the attention of the media. They have an action centre where people are trying to upgrade their skills and write resumé's.

My friends, I would invite any one of you to go to that action centre at 2180 Steeles West. Look at the job board, and you'll see what permanent jobs are on offer. You won't find any other than "pizza delivery driver." What you will find is temp agency manufacturing, \$10.50 per hour; temp agency warehousing, \$9.50 per hour; temp agency this, temp agency that. That is what is on offer for

thousands and thousands of Ontario workers who are losing their jobs today. You have an opportunity to say that when they go to that job through a temp agency, if that's the direction it has to be, they will at least get the money that that job is worth and not allow companies to take a cut, not allow a system, whether it's designed or it's simply the consequence, where those people are being paid \$3, \$4 and \$5 an hour less than what that job is worth.

Finally, you should say that Bill 139 should be amended to state that both temp agency and client businesses should be liable for violations of the Employment Standards Act. I was outside this building not three hours ago with laid-off auto workers and manufacturing workers who are being denied their severance pay because their companies have gone bankrupt—who had to take the law into their own hands, who are being branded criminals because they occupied a plant to say, “We demand our severance pay. There’s a provincial law that says we should get it, there’s a federal law that says bankruptcy gives the banks first dibs, and we are the ones who are losing out.” That’s the growing reality of what’s happening in this province.

But I’m going to go back to where I started, on the construction industry.

The Acting Chair (Mr. Lorenzo Berardinetti): There are about 30 seconds left.

Mr. John Cartwright: Some years ago, we looked at what we call the underground economy and the growth of companies that were taking people as temporaries and paying them cash on the dash. There was a study done by the Ontario Construction Secretariat that proved that the taxpayers lost hundreds of thousands of dollars of taxes, workers’ compensation payments and health care payments because those companies were circumventing the standards that should be in place.

What’s in front of you with Bill 139? You can do the minimum and pass Bill 139 or you can do the right thing and amend it so that equal pay for work of equal value is a basic right of every working woman and man in Ontario. Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you, Mr. Cartwright.

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DOUGLAS YARDLEY

The Acting Chair (Mr. Lorenzo Berardinetti): We’ll move on now to our 4:40 delegation. Mr. Douglas Yardley?

Good afternoon, and welcome. You have 10 minutes to present. If you finish early, then we’ll have questions of you from the different parties here. Please state your name for the record for Hansard, and then you can commence.

Mr. Douglas Yardley: My name is Douglas Yardley. I worked for many months as a temporary agency worker. I’m glad to have this opportunity to speak to you today.

I am glad to hear that the province is taking some steps to regulate temporary employment agencies, but I still have some concerns about the legislation. It’s essential that our labour laws not allow the creation of an underclass of low-paid, vulnerable workers. Temporary agency work is a major aspect of the job market, and as a society, we cannot afford to have hundreds of thousands of people working for wages below the poverty line for lengthy periods. These agencies and the poverty they cause are dragging our economy down. Workers cannot live on such low wages; neither can people looking for work afford to pay any fees to employment agencies.

In my own case, I was able to get a better-paying permanent job in November 2007, but after more than a year, I am still paying the cost of having worked as a temporary agency worker. I will reach retirement age in eight years, and I cannot afford to work as a temp worker again.

I urge the province to remove all barriers to obtaining permanent work. Client companies should not have to pay any fee for hiring an agency worker at any time.

The agreements between agencies and client companies, including the hourly rate markup and expected job duration, should be disclosed to workers because they are part of our working conditions. When workers know the expected duration of their assignment, they can know when they have been let go prematurely as a reprisal for trying to exercise their rights. This will provide increased legal protection for workers and accountability for client companies.

We deserve the same rights to public holiday pay and termination pay as regular workers. We need that money, and the employment agencies are well able to pay it. Workers are not just red ink on a ledger; we are also markets for goods and services.

Workers also deserve to have full information about the nature of the assignment and the name of the client company. From my own experience, I suspect that in some cases, such information is withheld as a means of preventing a worker from refusing an undesirable assignment. On a few occasions, I was given incomplete information and found, after a few hours or a day or two, that the job had some serious drawbacks, such as long hours or rotating shifts.

Stronger regulation of temporary agencies will mean that they will be forced to compete to attract workers. Agencies can bear these costs. If they cannot, they deserve to go out of business. To put it bluntly, I would really not mind if some of those temporary agencies and the people who run them were wiped off the face of the earth.

Thank you for hearing my concerns.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you, sir. We have about six minutes, so two per party, to ask you some questions. We’ll start with Mr. Bailey of the Conservative Party.

Mr. Robert Bailey: Thank you for your presentation this afternoon. You mentioned the fees—and you’re still paying them? You’ve moved on to a different job that’s

of a permanent nature, yet you're still paying from the agency that you were with before?

Mr. Douglas Yardley: I'm still paying off the debt I accumulated when I was working for low wages.

Mr. Robert Bailey: Okay. Did working in that temporary agency before help you, in some way, move to the more permanent job you're in now? Did you pick up some skills there or opportunities to advance yourself?

Mr. Douglas Yardley: In the job where I'm working now, I started out as a temporary worker, and then the company hired me on permanently after 17 months.

Mr. Robert Bailey: No further questions.

The Acting Chair (Mr. Lorenzo Berardinetti): Then we'll move on to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your presentation and your deputation. You heard the deputant just before you speak about equal pay for equal work. Is that something that you would support? In other words, if you had been working as a temporary worker and you received exactly the same pay and benefits as somebody who was working as a permanent worker there, would that have alleviated your situation?

Mr. Douglas Yardley: It would certainly have helped.

Ms. Cheri DiNovo: The other question I have for you: There's been quite a bit of news lately about a particular class of worker that is in a particularly bad state right now, and that's home caregivers, nannies, who go through very unscrupulous agencies. Would you be in support of this bill—it could easily be extended to cover them by simply saying “employment agencies” rather than “temporary agencies.” Would you be supportive of that?

Mr. Douglas Yardley: I would. I have no personal experience with nanny agencies, but I would certainly support fairness for those people.

Ms. Cheri DiNovo: Also, in the European Union, which was mentioned by the previous deputant, they have a limit on the time that somebody can work on a temporary basis. The original idea of temp work, of course, was to fill in for maternity leaves, to fill in for somebody who was ill and off the job, for a limited period of time. So the European Union has taken upon itself to specify a time, that being a year. Does that make sense to you; in other words, that temp work really be temp work?

Mr. Douglas Yardley: I believe so, ma'am. It's being used today as a major means for recruiting workers. It shouldn't take very long to find out whether a person is worth hiring as a permanent worker.

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move to the Liberal Party and Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before us today. Why did it take a year for you to recover your costs?

Mr. Douglas Yardley: Simply because I was going into debt. I was unable to keep up with living expenses.

Mr. Vic Dhillon: And did you pay a temp-to-permanent fee? You mention that you're now working—

Mr. Douglas Yardley: No, I didn't have to pay any such fee.

Mr. Vic Dhillon: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation today, sir.

ONTARIO FEDERATION OF LABOUR AND WATERLOO REGIONAL LABOUR COUNCIL

The Acting Chair (Mr. Lorenzo Berardinetti): The next presentation is the Ontario Federation of Labour. We have Wayne Samuelson and Derek Ferguson.

What we're doing is basically 10 minutes maximum, and if you do finish early, we allow time for questions. If you could just identify yourselves.

Mr. Wayne Samuelson: It's unfortunate that there's such a short time for such an incredibly important issue.

The Acting Chair (Mr. Lorenzo Berardinetti): Yes. We just have a very long list here.

Mr. Wayne Samuelson: My name is Wayne Samuelson. I'm president of the Ontario Federation of Labour. I have with me Derek Ferguson from the Waterloo Regional Labour Council. Derek will be speaking to you later about the practices of temporary agencies in the Waterloo region and the things he encounters on a day-to-day basis.

I want to talk to you about how important it is that this legislation go forward. I suspect that employers might be saying to you that in hard economic times you shouldn't pass this legislation. I want to tell you that in these times it is more important than ever to make sure we protect workers and provide a minimum standard that's enforceable.

This bill makes changes and progress in increasing protection for some of the most vulnerable workers in Ontario: new immigrants and racialized workers. It will try to bring workers the same protection that every worker in Ontario is supposed to have from the Employment Standards Act. That's why we think this legislation needs to move forward. However, if you want to make it effective, you will need to make some amendments that ensure that the delivery of the program meets the intent.

First, you have to ensure that a subgroup of workers, those who work in the home care sector, for example, receive the protections of this bill and that they have the same enhanced access to severance and termination as other workers. The government's proposed treatment of these workers flies in the face of the advice it received from Elinor Caplan in her review of home care, for example.

Second, we have to ensure that this legislation truly delivers on equal treatment for all workers and doesn't set a higher threshold for severance and termination pay for workers employed in temporary agencies.

Third, you have to ensure that this bill is effective in ensuring that temporary agencies cannot charge fees to workers.

Finally, you have to ensure that barriers to permanent employment are eliminated by this bill and remove the provisions that allow temporary agencies to prevent their clients from hiring temporary workers.

We know that rights that are not enforced aren't worth the paper they're written on. That's why we will be watching tomorrow's budget very closely to ensure that the government delivers on its promises of \$10 million to hire enforcement officers for employment standards.

We have provided you with a very detailed analysis of what we think needs to happen in the bill, but because time is so short, I'll have to leave it there and I'll turn it over to Derek.

Mr. Derek Ferguson: I'll state that I am Derek Ferguson, an executive member of the Waterloo Regional Labour Council and a firm believer that all workers of Ontario deserve the same protections under the Employment Standards Act. Unfortunately, many of those workers retained through temporary agencies are not receiving those same protections.

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In my time before the committee, I have two recent examples of vulnerable workers speaking to me in confidence for fear of reprisal from their temporary agency employer. My first example concerns a worker from a temporary agency on an assignment with a large Waterloo manufacturer. He was laid off temporarily at the end of January due to the lack of work, with a suggestion from the temporary agency that the layoff would be short-lived and he would be back to work soon. Over six weeks have passed with no job offers, and more importantly, he has not received his record of employment. He has been patiently waiting for a recall to work and feels that if he asks for his record of employment, he will be excluded from any permanent job opportunities.

My second example is of a worker assigned by a temporary agency to a local foundry. This temporary job involved repetitive heavy lifting. After several weeks, he developed the onset of a repetitive strain to his forearm and wrist. Afraid, again, to mention the injury, he tried to work through the pain but eventually spoke to the temporary agency, which managed to find him alternate temporary employment with a different client. No claim of injury was filed with WSIB, and his workplace injury is now approaching a chronic condition.

There are approximately 67 temporary agencies in the Waterloo region. It is very, very hard for anyone to gain employment except to go through one of these temporary agencies. These vulnerable workers, including the new immigrants, know they're being exploited, but they feel they're in no position to speak out, and that's why Wayne and I are before you today: to speak for them.

Respectfully yours.

The Acting Chair (Mr. Lorenzo Berardinetti): We have about five minutes left for questions. We'll go around the table and we'll start with Ms. DiNovo first for two minutes.

Ms. Cheri DiNovo: Thank you for your deputation. You heard the other deputants just before you and

certainly you heard the woman who owns a number of temporary agencies around the province.

It seems to me that, in the temporary agency business—I'm going to ask you to comment on something you're not intimately involved in; you're not owners of one. But if this bill came into effect and was, in fact, strengthened with equal pay for equal work, health and safety committees, the end of the six-month situation, the other things you've asked for over and over again today in the deputations, this would apply to all temporary agencies and hence create an even playing field. Certainly, it would get rid of some of them, which would be the agencies that are operating outside of the law and should close, but every other agency would be in the same position as any other business where the laws are the same. Would that be your answer to some of the concerns of the agencies?

Mr. Wayne Samuelson: I've got to tell you, if somebody comes here and tells you that because of your legislation there are going to be less jobs—give me a break. Temp agencies don't create jobs. What they do is, they find themselves in a position of basically skimming off the top, the money that should be going to people who get up in the morning and go to work and are trying to provide for their families. So I say to those temp agencies, "You've had a good run."

I can tell you, I came from a plant where 1,000 people lost their jobs two years ago. You talk to any of those people in the Kitchener-Waterloo region. If they want a job, they have to go through a temp agency, and you know what? If there's a time for a government to stand up and represent those people, it's now. This bill moves in that direction. The question for all of us is, are we going to be able to stand up for these people when they really need our help? And sometimes, that means standing up against people who have a vested interest in making a profit. It's that simple.

Ms. Cheri DiNovo: Do I have a minute more, or that's it?

The Acting Chair (Mr. Lorenzo Berardinetti): That was two minutes. I'm just going to go round to Mr. Dhillon and the Liberal Party. Go ahead.

Mr. Vic Dhillon: Thank you, gentlemen, for appearing before us today. That was a good presentation, and I do agree with some of the points you've made.

Employment agencies or temp agencies claim that workers can choose when to work. What's your experience on that?

Mr. Wayne Samuelson: And they say that with a straight face? I don't know if they're in the same economy that I'm in, but there are literally hundreds of thousands of people who have lost their jobs in the last couple of years. If you want to suggest to me that the solution in our economy is focused towards some people who want to work from time to time, then I've got to say to you, you're completely out of touch with what's going on across this province. I don't know how far you get to travel, but in the last week I've been to Thunder Bay, I've been to Belleville, Kingston, London—there's a

crisis out there and people want good, secure jobs. They don't want to find themselves going from temp agency to temp agency, from contract to contract. And, trust me, if we had more time, I could talk to you about how that leads to incredible exploitation of workers. The case Derek talked to about someone who gets an RSI injury, a repetitive strain injury, is a common situation. The chair of the workers' compensation board said two years ago that he was going to deal with it. Nothing has happened. This problem is not only out there today; every single day we wait, it becomes more and more of a challenge for our communities and for people who are out there.

My suggestion to you is, frankly, take with a grain of salt those people who have a vested interest in making money off of this and just go talk to the people that you have the privilege of representing.

The Acting Chair (Mr. Lorenzo Berardinetti): We need to move on to Mr. Bailey.

Mr. Robert Bailey: Thank you both, Mr. Ferguson and Mr. Samuelson, for your presentation.

Do you feel—I'm sure you do, from your presentation—that the CCAC should have been included in this and there would be no exemption for health care workers? I guess I probably don't have to ask.

Mr. Wayne Samuelson: I don't know how the government can justify this. There are lots of challenges in our health care system, certainly lots of challenges in the structure of the CCACs. But to somehow pick this group of workers and say that their rights are going to come later makes no sense to me, and I'm sure all of you—I'm sure you and Cheri DiNovo are sitting there and trying to figure out what the heck the government is thinking. There's absolutely no justification for it. And frankly, these are people who need support from the government right now, if not yesterday. They certainly can't wait for a year or two from now.

The Acting Chair (Mr. Lorenzo Berardinetti): Okay. Thank you very much for your presentation. We appreciate it very much.

PETER CARAGIANAKOS

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, which is Peter Caragianakos.

Good afternoon and welcome.

Mr. Peter Caragianakos: How are you, sir?

The Acting Chair (Mr. Lorenzo Berardinetti): Because you came in late, I'll just say that we are following a protocol of 10 minutes per deputation. If you do finish early, then we ask questions to fill in those 10 minutes. If you could, when you start, just identify yourself for the Hansard record.

Mr. Peter Caragianakos: Good evening, ladies, sirs. I am here on behalf of myself and other impoverished and demoralized workers who have been abused at the hands of the agencies. I have been waiting for years to tell my story, but until now I did not know who to tell it to.

I thought my troubles were over when I got a job working at the Airport Group, \$11 an hour. I never made

that much money in my life. Two weeks later, I received my paycheque. Instead of it saying "Airport Group," it said "Mavis and Miller." I asked a couple of guys, "What's up with this Mavis and Miller?" They told me that it is a temp agency, and you only work for the Airport Group after a 90-day probation period. Then you get full benefits. I was under the impression that I was working for the Airport Group. Anyway, what can I do?

A couple of days later, I heard from my colleagues that two guys were fired. Apparently they had criminal records and they didn't pass the security check. Unusual. You had to pass security before you could work at the airport. You have to go pay \$35 up at the police station. And these guys got in. I talked to Sammy, my supervisor, who told me they hired the guys anyway because they needed workers. These guys were working at the airport.

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After a couple of months, I started noticing my colleagues disappearing. What was happening? On the 89th day, everybody was getting fired, and because you were a temp, you had no recourse. My heart was broken. Before the 90th day, you're a statistic. On the 90th day, you might become a human being.

A few years later, I read about the RCMP raiding Erie Meats on Wharton Way in Mississauga. The temp agency that Erie Meats hired had illegal workers. They thought they had tuberculosis. What happened is explained in the latter pages here. I've got all the details here.

Just recently, I applied for a job as a security guard. The ad said, "Earn top wages. Immediate job opening." I applied and was told to take a \$309 training course first, and then I could work. I paid the money, I took the course, and then nothing happened. I got screwed. I got a hold of Donald Bowlby, recruiting officer, and was told, "We are just an agency and don't hire." I googled Donald's name. That's when I found out the truth: They are scammers. He had an agency in Ottawa called Premier Security and had to close it because of the bad exposure by CTV News. Kathy Tomlinson was the whistle-blower.

In closing, these agencies, in my opinion, are predators. Employers just use them to circumvent labour laws. The one agency, Mavis and Miller, breached airport security by hiring criminals. The other agency, Erie Meats, almost started an epidemic with their incident. The third agency, National Security Workers—still in business—in my opinion, they're outright crooks, preying on immigrants and new Canadians, the most vulnerable people in our society.

I also have from CTV, Google—here's a little snippet:

"Sourav Addy was one of those clients who paid and then didn't get the well-paying job PSIA staff said they would find for him. Born in India, he'd been in Canada just six days when he saw the company's ad. He paid more than \$500 for training he says he never received. That's a lot of money where he comes from.

"It would take me seven months to work for and get that kind of money in Indian currency," says Addy."

Now we've got people who are offering jobs. They're masquerading as employers, but really, they're job

agencies. With this employer's market, this is the trend. This isn't the only security company doing this. When you open up the Toronto Star, there are three or four of them—Iron Horse and a few other ones—doing the same thing: charging you for training and then getting you nothing. That's what's happening out there. That's where it's got to now. You've got to pay to work, and you still don't get a job.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute and a half per party, and we'll start with the Liberal Party. There's a question for you from Mr. Delaney.

Mr. Bob Delaney: Just out of curiosity, what type of work were you doing? You were talking about your experiences. I was just kind of interested in the kind of work that—

Mr. Peter Caragianakos: What experiences?

Mr. Bob Delaney: The experiences you were relating, when you were talking.

Mr. Peter Caragianakos: I worked for these companies, except for Erie Meats. I worked for the Airport Group. I was working for them at \$11 an hour. My job was to sweep up the garbage and go around the parking levels. They also employ—you know the guys who write the tickets when you try to park at the airport? And they employ inside workers, too. My job was sweeping up the garbage.

Mr. Bob Delaney: Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move over to the Conservative Party. Mr. Bailey.

Mr. Robert Bailey: Thank you very much for your presentation this afternoon. In your experience, a number of people have been affected by these so-called unscrupulous employers, like these security companies. Do you feel there needs to be more oversight of the security companies that offer these services?

Mr. Peter Caragianakos: Well, all you have to do is open the Toronto Star. They're listed there every day: "Phone today; work tomorrow. Earn top wages." So you go there; they sign you up for this course—they give you a one-day course at Humber College or whatever—and then, "That's it. Sorry." They give you the impression that they are hiring. Even their employees, when you go into their offices, are all dressed like security guards. I can see a new Canadian or an immigrant going in there and thinking, "Hey, these guys are hiring, so I'll pay the \$309," like I did.

Mr. Robert Bailey: Okay. Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to the NDP. Ms. DiNovo?

Ms. Cheri DiNovo: Thank you for your testimony here. It was moving and compelling. Unfortunately, Bill 139 doesn't address exactly the issue you point to, which is the definition of an employee, because these security companies clearly would still be allowed to function even with the passage of Bill 139 as it's still written. So I'm making a note about that.

Another issue: equal pay for equal work. Would that have helped you in your situation? If you were making

the same hourly rate and benefits as a permanent employee, would that have changed the situation even at Airport for you?

Mr. Peter Caragianakos: Well, it's not the point of the wages. I don't think the wages have too much to do with it. It's the way they treat you. The thing that hurt me at the Airport Group was, "Yeah, we'll give you a job," and all these guys were doing—I can't understand why Toronto cannot hire their own people to do what these guys were doing. I have the profile here of what these people do, the Airport Group. Why they couldn't hire themselves and then hire people at \$15 or \$17 an hour—it's just mind-boggling. Then these people, in order to keep the wages down—after 90 days you're an employee of Airport Group. Then you get benefits and you get a little bit more pay. For all the guys I was working with, at the 89th day of employment: "See you later. We don't need you."

Ms. Cheri DiNovo: And it's unfortunate that the immigrants you describe in Erie Meats would not be covered by Bill 139 either.

Mr. Peter Caragianakos: They're illegal, so—

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation, sir.

BEI XI LIU

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on, then, to our next presentation, Bei Xi Liu.

I hope I pronounced that properly.

Mr. Bei Xi Liu: You're right. Perfect.

The Acting Chair (Mr. Lorenzo Berardinetti): Try my last name.

Again, the rules are, 10 minutes to present. If you finish short of that, any remaining time can be used to ask you questions.

Mr. Bei Xi Liu: All right. Shall I begin?

The Acting Chair (Mr. Lorenzo Berardinetti): Yes. If you could introduce yourself for the record, and then you can start your presentation.

Mr. Bei Xi Liu: Okay. My name is Bei Xi Liu. I was a temp worker for one year. I worked for a temp agency until July of last year. Through the temp agency, I had worked at a downtown company as an accounting clerk. I'm going to talk about two issues. The first one is statutory holiday pay; the second is barriers to getting a permanent job.

When I worked for the temp agency, in my first half-year I didn't get statutory holiday pay. When I asked them why, they told me, "You are a temp worker and an elect-to-work." At first, I didn't understand elect-to-work. Then I tried to do research on the Internet and I found that "elect to work" means that you have options—it's quite complicated. It's taken me a long time to understand that. I felt that the nature of my work was not "elect to work." I worked there every week; I never said no to any assignment. Also, the client company is the only

company I worked for through the temp agency. I never got any chance to give me the option to elect to work. So I didn't believe what they said.

Then I phoned them again and told them, "It's not my case; I am not an 'elect to work.'" So I threatened the agency. I said, "If you don't pay me the statutory holiday pay, I am going to file a complaint at the Ministry of Labour." Actually, I didn't really know how to file one of those, but I just threatened them. But then it worked and they started to pay me. So that shows that the agency knew they were wrong. They just thought I was a sucker and they could fool me because I speak broken English. That's why they thought they could get away with it. I didn't let them get away with it. Actually, they still owe me some holiday pay for the first half-year, but I just forgot about it, because it's too much if I want to pursue that.

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I also want to say a little bit about Bill 139. It took me a long time to read it, but I found that it has lots that's very good. It should have come out sooner, actually. My experience with the temp agency shows why we need very clear rules with no loopholes, to give fairness and protection for temp agency workers, just like me and the—some statistics—700,000 I read about on the Ministry of Labour's website. For example, just removing barriers to public holiday pay will finally give us the same rights to statutory holiday pay that other workers get. So I think that Bill 139, on the whole, is very good.

Next, I want to address one issue about the six months—the agencies still can charge the client company a fee. That could be another loophole for those agencies, and they could take advantage of that.

Today, it seems that if you want to get a job, you cannot really get hired directly. You always have to go through some agency or some middleman. I just don't know why. It seems that the jobs are there, but you just cannot get them. The employers always use agencies.

If you work for agencies, you put yourself in a very contradictory situation. When you go there, you need a job. At the same time, you know that if you get this job, you'll restrict yourself because you'll block your way to future employment or potential employers. When I was sent up there, I knew that it would just put one rope around my neck, because I know they have the rules. Even if you finish your assignment, you still have—some agencies have 12 months; some have six months; some have 24 months. In my case, after I finished my assignment, my agency said I still had 12 months when I couldn't work for the client company; otherwise I'd have to pay them a fee. It's on the timesheet.

After I worked one year for that agency, the client company finally said—I always tried to get directly hired by the client company—"Okay, we're going to hire you, but there is a cost." Basically, it was a buy-you-out fee. The client said, "We have to pay the agency a fee to buy you out." The person who was in charge of hiring at the client company said, "We paid the fee to buy you out, so we can only offer you this wage rate." That rate is lower

than the normal amount I could get if I went through direct hiring. It's not fair, but my situation was really bad. I was caught up in that. What was I going to do? So I had to accept that. I knew it was not a good deal. It's a lousy deal. However, it was better than what the agency gave me. It was better than working with the agency. You get trapped there. You have no future. I'm shouldering that, and every half-month I feel that because when I get my paycheque, I see my rate and know, "Okay, that's what I paid for the agency." I know that in Bill 139 it says that rate is a prohibition. It's very clearly stated that agencies cannot charge the temp workers or transfer it to the client. But when they are allowed to charge you within six months, then that cost will shift to whoever, to somebody like me. You're hired by a client company and then you are in a disadvantaged position when you want to negotiate your salary or any of those things. So eventually it will fall on our heads.

That's why I feel that we shouldn't give them any loopholes to take advantage. No matter how long, even just one day, if you allow them to charge, they will use that. In my case, they might say, "Let him work here five months and then move him out and get another one there."

The Acting Chair (Mr. Lorenzo Berardinetti): Mr. Liu, you have about 30 seconds to wrap up.

Mr. Bei Xi Liu: Just 30 seconds?

The Acting Chair (Mr. Lorenzo Berardinetti): Yes.

Mr. Bei Xi Liu: Oh, my gosh. All right. I'll just say one—what do I want to say? I wish they'd remove the six-month status. They shouldn't have that, because really it's a loophole in there. Okay, that's all I have to say. Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you for coming here today and for your presentation.

URBAN ALLIANCE ON RACE RELATIONS

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to our next deputation, the Urban Alliance on Race Relations. I have a number of individuals here: Sri-Guggan Sri-Skanda-Rajah and Michelle Cho.

If you could, as I was mentioning this afternoon, mention your names before you speak or identify yourselves. You have 10 minutes, and any time not used up will be shared by the parties to ask you questions. Good afternoon, and welcome.

Ms. Michelle Cho: Good afternoon. My name is Michelle Cho, and I'm here today with Sri-Guggan Sri-Skanda-Rajah, president of the Urban Alliance on Race Relations. The UARR has been around since 1975 promoting racial equity in Toronto through public education, research and advocacy.

A society committed to healthy labour relations can be defined by how its public institutions remain accountable in the protection of its most marginalized workers. We come to you in solidarity with other community organizations working to highlight the many ways in which

temporary employment agency workers in Ontario are paying some of the greatest financial, physical and psychological costs for the holes we have chosen to ignore in our labour standards.

I'm sure many people here today have been talking about the significant shift towards unsecure labour in our labour market disproportionately staffed by racialized workers, newcomers and women, which has only contributed to the feminization and racialization of poverty.

Further, the elimination of Ontario's Employment Agencies Act in 2000 made room for temporary employment agencies to begin a slew of practices to take advantage of workers without basic protections.

Employment agencies have benefited enormously, with income generation increasing from \$1.5 billion to \$8 billion in revenues in the past eight years, with over 60% of that being generated in Ontario.

Our labour law is outdated, and we applaud the government of Ontario in taking steps to ensure that these market changes are met with corresponding adjustments in labour law to reflect fairness and protection for workers in temp agencies.

Bill 139 is definitely a step in the right direction, and the new Employment Standards Act will give temporary agency workers some minimum protections in the following areas: the repeal of elect-to-work regulatory exemptions; making documentation about employment standard rights and work assignment information mandatory; and making it illegal to charge direct fees to temporary agency workers.

Unfortunately, due to the limited nature of this presentation time, we're just going to focus on a few key points regarding the ways that we think Bill 139 has to be amended.

(1) The prohibition of elect-to-work exemptions: We're happy to see that the elect-to-work exemptions have been eliminated in this proposed legislation amendment. Most temporary agencies define all workers as "elect-to-work" because they're seen as having the ability to deny work assignments without penalty and can therefore be exempt from receiving any holiday pay or compensation for termination or severance. We know that most low-wage workers don't have this privilege, so we're glad to see that being removed. While public holiday pay exemptions have been removed, workers will have to wait until Bill 139 is passed for the repeal of elect-to-work exemptions for termination and severance. We believe this regulation should be immediately removed.

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(2) Making it illegal to charge temporary workers direct fees: Temp workers should not be charged any direct or indirect fees by the agency employing or obtaining employment for a person seeking work or for information about employers looking for workers. These fees are not only unjust; they financially exploit workers who are already making 40% of the income of their permanent employee counterparts. There are a lot of changes that need to be made with the elimination of the

Employment Agencies Act, because it has now become common practice for the industry to charge fees for services that should either be provided by the agency or are being misrepresented as a mandatory requirement. We agree that it should be made illegal; that temporary agencies should not be able to charge workers direct fees for services.

However, the definition of temporary work assignment under Bill 139 has been too narrowly defined and will not stop these agencies from charging workers fees for finding permanent jobs and employment services. We would suggest that the definition of employment agency needs to be broadened to include temporary and permanent staffing and placement services. If not, then the overall aim of the legislation will be undermined and fail to address the loopholes that companies will use to charge fees for anything that falls outside this narrow definition. These are ways for companies to pass on the basic costs of doing business when they already have such low overhead. Workers are being charged for services and completing training rather than being paid the hourly wage they deserve for this time. Ontario should be following the lead of other provinces that have made these fees illegal such as Alberta, BC, Manitoba, the Northwest Territories, Nova Scotia, Nunavut, Saskatchewan and the Yukon. Further, in other provinces that have banned the charging of these direct fees for services, it has not harmed this industry's revenue, and in fact these companies have seen double-digit revenue increases since 2006.

Last, the six-month barrier to full-time employment: Bill 139 says it will prohibit temporary employment agencies from imposing barriers on client companies hiring assignment workers. This is another much-needed change, as there should be no barriers for temporary workers to find stable employment. However, the proposed bill will only make these barriers illegal six months after the assignment begins. Further, agencies will be able to charge a fee to the client if the employee is hired during the six-month period. This section should be completely deleted, because it traps workers in low-wage, precarious work and creates financial deterrents for the client companies to hire them as permanent workers. There's no logical reasoning for temporary employment agencies to charge costs for future loss of earning—that's simply unconscionable. Further, it would only create legislated incentives for workers to be removed from work assignments prior to the six-month deadline. Failing to remove the six-month barrier will only ensure workers' immobility in the trap of insecure labour and contradict the goals of this proposed legislation.

We see the exploitation of temporary workers as being a modern-day form of indentured labour of people whom we have determined to have dispensable rights. The Employment Standards Act is ineffective at addressing substandard working conditions, where people are struggling to meet their basic needs in a system that has failed people and punishes the worker for wanting their rights respected. Unfortunately, we didn't have time to

address other issues such as the issue of termination and severance and the exclusion of home care workers, but we support other community agencies that have come forward and brought those concerns.

In conclusion, we cannot afford to stand idly by while people are continuing to fall through the cracks because of these regulatory holes. Temporary agencies and client companies must be held jointly responsible for the violations of basic worker rights to ensure justice and fairness for all. To this end, this committee should reform the legislation without delay for the following: immediate repeal of elect-to-work legislation; broadening the definition of temporary work assignments; banning the charge of direct and indirect fees for temporary workers; and the removal of the six-month barrier to full-time employment.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much.

SKILLS FOR CHANGE

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on to our next presentation, Skills for Change; Jane Cullingworth, executive director.

Ms. Jane Cullingworth: Hello. My name is Jane Cullingworth and I'm the executive director at Skills for Change. Skills for Change is a community-based non-profit organization that has been working with immigrants and refugees for the past 26 years. We serve approximately 13,000 clients a year, providing language training, skills upgrading and employment support programs. Many of our clients are internationally educated professionals: teachers, medical doctors, engineers and architects looking to secure employment in a labour market that is often inhospitable.

Despite the fact that Canada has actively encouraged the immigration of skilled workers, many of our clients face barriers that are often insurmountable. These include—and you have heard these all before—not having Canadian work experience, which is often a requirement in our workplaces; lack of recognition of their qualifications and experience; difficulties of securing a licence in regulated professions; difficulties in finding jobs in our hidden job markets; lack of networks; and often, underlying all of these barriers, racism.

Many of our clients and other immigrants across the GTA access the services of Skills for Change and other organizations. They also turn to temporary help and employment agencies. We know first-hand from our clients that the experience with these agencies is varied and that there are far too many instances where individuals are exploited.

We applaud the government for its leadership in Bill 139. You have listened to the concerns of the community and taken strong action to create a framework that provides important protections and necessary restrictions in the industry. This bill will go a long way to addressing the exploitation experienced by many newcomers to Ontario.

There are three areas where we would recommend changes to strengthen the bill to ensure that the government's goals of fairness and protection of temporary agency workers can be achieved. These are: removing the fees for hiring temporary-to-permanent workers, expanding the definition of temporary help agency and introducing penalties to ensure compliance.

In the first area—this is subsection 74.8(1), the exception of paragraph 8, subsection (1), fee for hiring—the bill allows the agency to charge a client a fee for hiring an assignment employee within six months from the date of assignment. We do not agree with this. We believe it is unethical for there to be any fees related to the hiring of a temporary worker. We are concerned that this provision will result in practices that will see temporary workers assigned to contracts of less than six months, ensuring that they cannot be hired by the client without a fee. It is our understanding, and actually our experience, that the majority of assignments are already less than six months.

This practice may have the unintended consequence of further institutionalizing insecurity for workers. It certainly creates barriers to client companies who want to hire workers directly. There can be no exceptions to this approach; all workers, regardless of their assignment, whether it is a low-skilled position or a position that requires a high level of experience and education, need to have freedom of mobility when it comes to their employment.

Further, we are troubled by the enshrinement of this provision in legislation. To our knowledge, no such provision currently exists in the employment standards legislation. The validation of this practice sets, potentially, a dangerous precedent. Legislating restrictions on workers' mobility opens the door to other problematic employment practices, and this is of great concern. We strongly suggest that the government remove this section from the bill to ensure that fees cannot be levied for the hiring of temporary workers at any point in their employment. At Skills for Change, we witness every day the impact of the systemic barriers that are faced by our clients. We cannot, as a society, continue to create systemic barriers.

The second area in which we would suggest change is in subsection 74.1(1), the interpretation. Here, we suggest an expansion of the definition. The proposed legislation contains a restrictive definition of a temporary help agency. We understand that the intent of this legislation is to protect workers. In order to do this, an expanded definition is critical. We fear that the current wording will result in some creative practices that will see many fee-based services charged to workers who sign up with staffing agencies that fall outside of the definition of a temporary help agency. We recommend that a more inclusive definition be used, such as "employment agency," to ensure that the intent of this bill is realized.

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Finally, penalties: In order to ensure that this proposed legislation will have teeth, penalties must be introduced for non-compliance. The best policy in the world is

meaningless if there is not the ability to ensure its application.

Many of the individuals who access temporary help and employment agencies are vulnerable workers. They are often willing to sign restrictive contracts, even if these contracts are legally unenforceable, if they believe that they will secure work as a result. Given the nature of this relationship, a system needs to be in place to ensure that temporary help agencies know that their practices are being monitored and that penalties will be levied for non-compliance. We call upon this government to introduce penalties to ensure the enforcement of Bill 139 similar to the penalties that are included in Bill 124, which is the Fair Access to Regulated Professions Act.

These are the key areas that we wanted to highlight for the committee's consideration. We strongly urge that the bill be strengthened to ensure that it can achieve what the government has stated it will: create fairness and protection for temporary help agency workers.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute per party. We'll start with the Conservative Party.

Mr. Robert Bailey: Thank you for your presentation. Is it your experience, Ms. Cullingworth, that temporary workers have in fact moved from temporary to permanent employment?

Ms. Jane Cullingworth: It does happen, yes.

Mr. Robert Bailey: That's a good thing. So that has actually happened; they're not left languishing if they have the skills.

Ms. Jane Cullingworth: It's less often we see that. Generally people do tend to become trapped as temporary workers, but yes, we have had experiences where people have moved on to permanent employment.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We'll move to the NDP.

Ms. Cheri DiNovo: Thank you for your deputation. Certainly employment standards officers are in short supply, and only about 1% of employers ever get inspected. So some of the abuses could be solved by having more employment standards inspectors go out to employment companies, which we're asking for.

Nannies: This has been in the news for the last couple of days. We're asking for action from the government in extending this bill to include nannies. They're some of the most exploited of internationally trained folk who come over. Would you support the extension of Bill 139 to include nannies as well?

Ms. Jane Cullingworth: Yes. I think the framework is good, and it should be applied as broadly as possible.

Ms. Cheri DiNovo: Absolutely—just calling it “employment agencies” rather than “temp” would do it.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. The Liberal Party.

Mr. Bob Delaney: If you could encapsulate in a few seconds, what do you see, in your opinion, to be the responsible role of an employment services agency today?

Ms. Jane Cullingworth: For many of our clients, what they're looking for is Canadian work experience.

They just want the opportunity to be able to demonstrate their skills. So it is great for people to have the opportunity to go into a workplace, even if it's a short assignment, to demonstrate their skills. What we need to make sure of is that there aren't barriers to the employer in actually being able to hire those individuals.

Mr. Bob Delaney: Thanks.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much for your presentation, Ms. Cullingworth.

CANADIAN PUNJABI POST

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move on now to the next presentation, the Canadian Punjabi Post, Karam Punian from the editorial board.

Good afternoon, and welcome.

Mr. Karam Singh Punian: Thank you, Chairman and committee members, for this opportunity. My name is Karam Punian. I am associate editor of Canadian Punjabi Post—it's a daily newspaper—and a co-host at 770 AM. It's the radio where we talk, taking views on news only.

We've been discussing this matter with our listeners since at least December, and the following is the feedback we get from the community.

There should be no relationship between the client and ownership of the agency. We have lots of complaints that the same people running the business are the same people running the temporary workers' agency.

The markup gap should be limited. We have complaints like the companies are making \$5, \$5.50, \$6 per hour with the workers.

A six-month permanent period is a very hard time. We get the feedback from the community that there should be no time period for this; or, if there is any, it should not be more than 60 days.

Disclosure of client company's needs for work: It should be notified to the worker, like such-and-such work that he's going to do on such-and-such dates. Temporary workers get minimum wage; it doesn't matter how long they work. There should be some provision to review the minimum wages, and we suggest at least after 60 days, and there should be some night premium added to this one too.

Temporary workers get no benefits whatsoever, including prescriptions from the family doctor. We urge that something can be done so that the temporary worker is not forced into poverty.

We have feedback: The client is very selective for demands for the workers on the basis of age and gender. We realize that they are already allowed there, but those things are happening. It should be not be there and there should not be selection on the basis of age and gender.

Agency rosters are too high and the worker doesn't know when his term is coming. He has the family to run, he has parents to look after and kids at home. He's looking at the phone, when the phone rings. So we have feedback. There should be at least 24 to 48 hours' notice

when he's going to work. In some instances, clients call the worker for work, and he shows up at the door and then they say, "No, we don't have any work for you today." In that situation, there should be a minimum of four hours' pay for the worker for showing up at the door.

An agency roster should be limited and it should be available to the public so they know—let's say there are 1,000 agencies—how many workers are on the list, and the worker at least knows when his turn is coming.

If resources permit it, we request that there should be the ethnic media involved, because we are listening from the South Asian community. Mostly people are South Asians who are affected with this one, and there should be something we can communicate to the public about their rights and their responsibilities.

When this law is done, there should be a monitoring body and enforcement otherwise it will be a piece of paper. There should be a body and there should be the system if someone wants to put a complaint forward, either in Metro or Peel. Wherever it is, there should be the provision.

Thank you very much for the opportunity, and I'm more than happy to answer any questions.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about two minutes per party. We'll start this time with the NDP and Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your deputation. A question you must see also in your community: Nannies who are hired through unscrupulous agencies would not be covered by the bill as written. Would you support the extension of this bill to include those home care workers who are nannies and probably some of the most exploited workers?

Mr. Karam Singh Punian: We feel it was the jurisdiction of the federal government. If you realize that Ontario can do something for this one, definitely we support that.

Ms. Cheri DiNovo: Absolutely. Employment standards is an Ontario issue, and all they would need to do in part is put "employment agencies" rather than just "temporary agencies" and a couple of other little changes, but it would be very simple to do. Manitoba has done it.

Also, equal pay for equal work: Is this something that you would support? In other words, if someone working is doing exactly the same job, should they get equal pay for it even if they're only working part-time or temporarily?

Mr. Karam Singh Punian: That's what I mentioned. There should be equality not only in pay but in gender too. It should be similar for every worker who's going for this type of job. It should be similar for each individual.

Ms. Cheri DiNovo: Thank you very much, sir.

The Chair (Mr. Lorenzo Berardinetti): We'll go to the Liberal Party, then, and Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Mr. Punian, for coming before us today. You mentioned that you are a host on, I suppose, a Punjabi radio show?

Mr. Karam Singh Punian: Right.

Mr. Vic Dhillon: What's the volume, if you could describe, of the calls that you receive in terms of complaints about the issue we're talking about here, temp agencies?

Mr. Karam Singh Punian: Continuously, we're discussing this issue for the last five days. We have a two-hour program and we get 50-plus calls every day. So we got more than 200 calls in the last four days.

Mr. Vic Dhillon: One of the things that has created this bill is complaints about fly-by-night temp agencies which, for lack of a different word, abuse the workers. Can you give us an example or two of how, and what type of abuse is occurring out in the community?

1740

Mr. Karam Singh Punian: Very good question. Yesterday we got a call. A girl wanted to talk off the air. We spoke to her off the air. She wanted to meet us personally. We met her at 5:30 yesterday.

She explained that she's going through an agency. She is 22 years old. There were ladies working for a client; they were about 50, 55. The supervisor working for the client requested to the agency, "Don't send 55-year-olds. Send 22-year-olds." She was almost crying. When she went over there, he made remarks like, "Your job is in my hands." You can understand this situation, what it can be.

Mr. Vic Dhillon: So it leads to further exploitation.

Mr. Karam Singh Punian: It is way more. That was one example. I asked, "How many girls are working there?" She said, "Twelve." I asked, "Does everybody face the same situation?" She said, "Very much so."

The Acting Chair (Mr. Lorenzo Berardinetti): Last question.

Mr. Vic Dhillon: You mentioned the use of ethnic media etc. Do you feel, if the rights are communicated through different languages and awareness is heightened, that would lead to a lessening of the abuse?

Mr. Karam Singh Punian: Definitely, sir. I live in Peel region, and in my area the population is more than 50% ethnic. I believe that if government resources permitted, if you went through the different channels—Chinese, Korean, Indian, Afghan or whatever it is—that would be a big help for the working-class people.

Mr. Vic Dhillon: Thank you very much.

The Acting Chair (Mr. Lorenzo Berardinetti): We'll move over to the Conservative Party. Mr. Miller.

Mr. Norm Miller: Thank you, Mr. Punian, for your presentation. I just had a question to do with your point A, where you say that there are innumerable instances where clients have direct ownership stakes in the management of the temporary help agencies. I was surprised by that, actually. Is that quite prevalent?

Mr. Karam Singh Punian: We have two reports. Three companies get together and they form a temporary agency. Instead of hiring workers directly and paying them more, they bring in the resources through the agency. Plus, they have their own people running this agency.

At the same time—we have three examples; it's not on the record: The same people are the clients and, indirectly, the same people are running the temporary work agencies.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you for coming out this afternoon, Mr. Punian. That completes your deputation. We'll move on now to our next deputation.

Mr. Karam Singh Punian: Just one second. There are a couple of mistakes. My last name: One spelling is missing. In print there's "markup"; I think I printed "makeup" there, so I request the change in that one too.

The Acting Chair (Mr. Lorenzo Berardinetti): Oh, we added the "n" at the end.

Mr. Karam Singh Punian: Okay. Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you very much.

DALIA GALINDO

The Acting Chair (Mr. Lorenzo Berardinetti): The next deputation is Dalia Galindo.

Good afternoon, and welcome.

Ms. Dalia Galindo: Good afternoon. Hello. My name is Dalia Galindo. I have worked with five different temp agencies in a period of two years and five months. I have seen so many different issues in each one of the agencies that it's difficult for me to reduce my story to just 10 minutes, but I'll try.

I wanted to talk here today not only for myself but also for my mom, who used to work with me, for my friends and other workers who face the same problems.

I am here today because we need changes, and Bill 139 is a baby step toward what we need. Maybe one day we will have a bigger change. Meanwhile, one of the important points in the bill is the fact that if the bill is approved, it will require the agency to provide us with information about the assignments we are required to do.

The day I came into the first agency to sign an application, they provided me with only a little bit of information about the task. They just said I would work in a plastics factory and I would be required to use an X-acto knife. They said they would show me a video about safety in the workplace, but just after saying this, the agency received a call from the factory saying they needed more people, so they told us we could start right away. They asked us just to be careful and not to cut ourselves with the knife because otherwise the agency would get into trouble. They also asked me to tell the manager I had seen the video, even though they never showed it to me.

After working there for around two months, 12 hours per day, four days a week, I came up with another issue. While I was working, a man on the same assembly line asked me how much money I was making per hour. So I answered that I made \$8.25. The man's mouth dropped wide open. He told me, "You are young. You shouldn't work here anymore. The agency is paying me \$14 an hour." I couldn't believe it. I couldn't even understand

why a place could pay different rates to people doing the same assignment. I even thought, "I'm smarter than this guy, and here I am doing the same job. I should get paid more." Later on, I thought that maybe the guy was just lying. Maybe I just needed to pay more attention and then see if I could find someone else who was getting a different salary. So one day when I went to pick up my money, a woman came in asking for information. When she asked how much the agency paid per hour, my own manager told her it was \$7 an hour—right there in front of me. After that, I stopped working through that agency.

It didn't take long before I learned about another agency. I went there and filled out an application full of illegal questions. Of course, at that time, I didn't know it was illegal for them to ask my actual age or my first language. Anyway, I finished the application. They tried to get me into working without my insurance permit. I refused. Then, again, I was provided later with information about the workplace. They pretty much just said that I would work as a waitress, making \$9 per hour. I agreed. After one month of working with them, I received my first pay, and to my surprise they refused to give me the cheque. They said that they had to cash it themselves, and I would have to pay \$5 each 15 days for that service. I also had to pay another \$5 for transportation to the workplace. As far as I know, Bill 139 will also get rid of some of these fees, and that will mean more money in my pocket every payday.

Most of the time, I will never know how long my shift will be. I was told to ask the banquet hall I was working for and then inform the agency one hour before the shift was over. That way they would have time to get ready to pick us up. Even though we are required to pay for the pick-up service, if two groups of people working in different banquet halls finish shifts at the same time, you have to wait one hour, sometimes more, sometimes less. I am talking about a job where most of the time you finish at 12 or 1 a.m., which means that you cannot catch the subway anymore because of the time, and they don't even pay you for that time.

I seriously think Bill 139 should be approved and improved. We need to know where we're going to work, for how long and what is expected of us. We have lives too. We need to pay our bills and run our lives and we need security. We really need a law to make the agency provide this information. Especially myself, I have suffered because of the lying in this field. The agency would lie to me about the place where I was going to work. They would call me, tell me I was going to work in one place and then simply drive me to another one—the one none of my co-workers liked because of the bad conditions. That is not the only trick they have. They also called my mom and told her she was going to work as a waitress, and then, in the end, they just took her to a pasta factory. How was she supposed to know what to do there when nobody told her where she was going?

I really want this bill approved. I want information about the work. I don't want to have to go to places that I don't like just because of the lack of information.

Moreover, why should I have to pay fees to work in a deceiving place? Bill 139 will force the agency and the company to take responsibility for the workers. What if I get hurt? How do I prove I was on assignment that day? If the three parties—the agency, the company and the workers—sign off a paper sheet, I wouldn't have to fight for respect all the time. Someone would have to take responsibility for me.

I'm so lucky. My English is pretty good and my personality allows me to speak about my rights—not to mention that I don't have children. Even though I fear not being able to pay my rent, I don't have as much responsibility as parents do. I have less to fear. That's why I am here today, trying to speak out for what we need. We need to make Bill 139 stronger. We should have laws to protect us, laws that will force the temp agency to respect us. That's it. Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you. We have about a minute per party to ask you questions, starting with the Liberal Party.

Ms. Laurel C. Broten: Dalia, thank you so much for coming today. We're coming to the end of our day today, and I think it's so important that individuals come forward and tell their stories. We've had a lot of individuals come forward today and throughout the time that we've been talking about making improvements to this system. It's only by having the insight that all of you give us that we are able to determine what the issues are and how we can move forward. Simply, on behalf of all of us here today, I really want to thank you and the others who came today for being brave enough to come and tell your

stories and to let you know that it is absolutely critical that we get that information to be able to move forward to create the type of society that we all want. Thanks very much.

The Acting Chair (Mr. Lorenzo Berardinetti): The Conservative Party.

Mr. Robert Bailey: Yes. Thank you, Ms. Galindo, for your presentation today. It was very insightful and very helpful to understand what new Canadians and new immigrants face in the employment sector. Hopefully, your case is not an example of all but maybe an exception. I wish you well, and thank you very much for your presentation here today.

The Acting Chair (Mr. Lorenzo Berardinetti): Ms. DiNovo?

Ms. Cheri DiNovo: Yes. Thank you, Ms. Galindo. I'm so sorry for what you've had to live through. Certainly as the employment standards critic for the New Democratic Party, I pledge to try to make this bill as strong as we possibly can so that it prevents other people from having to live through the same experiences you've had to live through.

Thank you so much. You're a brave woman: Know that.

Ms. Dalia Galindo: Thank you.

The Acting Chair (Mr. Lorenzo Berardinetti): Thank you, and thank you for your presentation as well.

Ladies and gentlemen, members of committee, we are adjourned. Our next meeting is Wednesday, April 1, starting at 12:30 p.m.

The committee adjourned at 1753.

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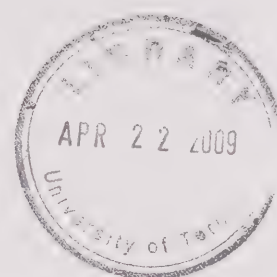
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Mercredi 1^{er} avril 2009



Standing Committee on the Legislative Assembly

Employment Standards
Amendment Act
(Temporary Help Agencies), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 modifiant la Loi
sur les normes d'emploi
(agences de placement
temporaire)

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 1 April 2009

Mercredi 1^{er} avril 2009*The committee met at 1231 in room 228.*EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT
TEMPORAIRE)

Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

TEMP WORKERS RIGHTS ACTION GROUP

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order. We're here to continue public delegations on Bill 139.

The first presenter is the Temp Workers Rights Action Group. Please come forward. Could you state your name for the record? You have 10 minutes. If there is any time left after your deputation, we will entertain questions from the three parties. Go ahead.

Ms. Michelle Hruschka: Good afternoon, ladies and gentlemen. My name is Michelle Hruschka and I am the chair of the Temp Workers Rights Action Group from Hamilton, Ontario. We are a grassroots group that is dedicated to advocating for changes to the Employment Standards Act to improve the lives of those workers who are trapped in a never-ending cycle of poverty and despair.

They say that one must walk a mile in another's shoes to truly understand their path, so we are here today to try to bring a human face to the policy of "elect to work" and how that policy has affected a worker's human and labour rights. It is an effective part of a poverty reduction strategy and this committee must give equal weight to the voices of the workers in this policy change initiative.

Where is the justice? Where is the protection? A worker accepted an assignment at a local temp company that was to cover a maternity leave with a subcontractor for the city of Hamilton. The city of Hamilton has a zero-

tolerance-for-violence policy which one would think would cover workplace bullying, but for the temp worker, there was no protection. It was the second call made to the temp company where the supervisor had ordered the worker to do a pay check, in violation of the collective bargaining contract. Not only was the worker terminated, but the temp company refused to send the worker out on any more job assignments. After six months and repeated requests, the worker was still fighting for the record of employment in order to access EI benefits.

It was at this point that the worker had to apply for Ontario Works. It is unacceptable policy that the onus is put on the worker to produce the record of employment, and not the temp company itself, which has violated federal statutes on the issuance of a record of employment. One can go to the HRDC website and find very clear language on this issue.

Another worker found themselves unemployed from a temp assignment. This time, the issue was training, which clearly wasn't the fault of the worker but of both the temp agency and the client company. But it was the worker who paid the consequences.

But what if the training issue was a health and safety issue? Under clause 9(2)(a) of the Occupational Health and Safety Act, workers are required to have a joint health and safety committee where the workplace has 20 or more full-time workers in the workplace. I think it is essential that there is clear language as to what the definition of a "full-time employee" is. Who has the responsibility? Is it the temp company or the client company, on issues of occupational health and safety?

Temp companies could have 20 or more people working in very long-term assignments and they could be deemed as full-time employees, thus being entitled to a joint health and safety committee. After researching public holiday policy under the act, I knew that a probation period was non-existent and that the type of work that I would be accessing would not be considered exempt from statutory holiday pay. I applied for a job posting at a temp company. I did not sign the line on the application where it stated that I would be denied statutory holiday pay, as they deemed it as a probation period. The temp company representative had questioned me about the fact that I had not signed that, and I replied that I wished to get a ruling from the Ministry of Labour on this issue. The temp company rep again stated that this was company policy and I replied back, "It may be company

policy, but under the act, there is no probation period and I am entitled to a ruling from the ministry." Needless to say, I was not given any opportunity for this job posting, and given my experience, I have to wonder, how many other workers out there who try to stand up for their rights are essentially blacklisted from any job opportunities?

The need for reform: I think it is important to remember the many workers who have fought and died for fairness and justice in the workplace. They fought for health and safety, benefits, the number of hours worked, overtime, severance and termination pay, vacation days and sick days. It is very unfair that 37% of all workers today are denied access to many of the rights that workers fought and died for.

I have to ask myself, where is the fairness and justice when a temp company can charge a minimum-wage earner a \$20-a-day fee for transportation costs? A temp worker earning minimum wage at 40 hours a week would have take-home pay of approximately \$1,200 every four weeks. This \$400 transportation fee is very excessive and would bring the temp worker's earnings down to \$800 for a four-week period, and that isn't very much to live on when one has to consider looking for shelter, food and any other personal items.

I will leave you with this last story, and I hope that it does touch your hearts. A young worker in my community had worked at the same temp assignment for over a year. The worker went to work faithfully and diligently. One day, the worker had a family emergency. He called in to the temp agency and explained the situation. This worker was terminated, fired—no notice, no termination pay. The worker had to fight for EI benefits and was denied because the worker had no representation, no union or worker representative to appear with him at the board of referees' hearings. The worker had to apply for Ontario Works, which, for a single person, is less than \$600 a month. Under Ontario Works, the worker now falls under workfare policies, which also deny workers their rights to employment standards. I'm asking, can somebody please explain what this worker did that was so wrong? Why was he thrown into abject poverty? Who is really standing up for their rights?

1240

I think it's important that temp workers, under Bill 139, have the same rights to family emergency leave that other workers get. Temp workers need to be able to take family emergency leave without losing their income, their job or their dignity. Bill 139 needs improvements to ensure that all workers have the same protection and rights to termination pay and any other employment rights standards.

I look around me in Hamilton and people are losing their jobs. What do they have to look forward to? Temp work—low pay, no stability, no security. Bill 139 should make sure that we do not get stuck in temp work. We need to be able to access permanent jobs with protection. Agencies should not be allowed to put up barriers to permanent work.

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Michelle Hruschka: I urge that you think of all the workers who struggle as you deliberate this bill. Workers need protection and they need to be treated fairly. The government needs to be committed to ensuring that there are laws to protect those workers and that those laws will be enforced. Please take a bold step forward. Change the law to ensure that those workers who are the most marginalized have a voice in their battle to be treated fairly and with dignity. These workers deserve to have their voice heard. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be with us.

THE EMPLOYMENT SOLUTION

The Chair (Mr. Bas Balkissoon): The next presenter is The Employment Solution. Can you please state your name for the record, and you have 10 minutes. If you don't use your 10 minutes, then there will be an opportunity for questions from all three sides.

Mr. Frank Wilson: I'm Frank Wilson. I'm the president of TES, The Employment Solution. The lady to my right is Chris Lusignan, who is the VP of finance and administration. She's been working with us for 25 years. I've been in this industry for over 40 years.

What we're going to say is very important, so we really hope that you will give us your undivided attention with regards to this important matter, Bill 139. My company, our staff, truly believe that this government does not want to cause irreparable damage to our industry or to the Ontario economy.

TES is a privately owned Canadian company in the staff augmentation business. What we do is find engineering, technical and information technology personnel to fill specific needs for our clients. We have been doing this for over 33 years.

In a year, TES makes over 3,500 contract placements and over 250 permanent placements. What we don't do is abuse our candidates and contract personnel, whether they are new arrivals to Canada, new grads or people with a long-term work history here. We don't charge candidates fees for being placed or for any other aspect of our services. We don't prevent them from being hired full-time by any employer. We don't send our candidates to unsafe work environments. We don't exploit them financially. And depending upon the sector, our contractors' average wages are in the area of \$35 to \$60 per hour.

But what we do do is care about our contractors and temporary workers. We care about their safety. We inspect worksites. We participate in our clients' health and safety committees. We provide WHMIS and health and safety training to our contractors. We have developed our own comprehensive health and safety training programs for a variety of environments.

We also do care about their careers. We offer free career counselling, resumé writing, consulting and inter-

view coaching. We offer subsidized skills upgrade training in a wide variety of technologies. We advocate for them with the employer, and we offer assistance in negotiating if they are indeed interested in being hired on for full-time staff.

We also do care about another issue, and that is trust. We practise full disclosure at TES. Both the client and the contractor can see our complete cost and profit breakdown. They know they're getting a fair deal because they see where every dollar goes. There are no secrets.

Why are we here today? Because this bill will kill research and development and project-based industries in the province of Ontario.

Why do our clients hire contract personnel? Because many of Canada's important industries work on a project-based model. It's their nature—not anything controlled or created by ourselves. Aircraft companies work on designing and building new aircraft. High-tech companies work on developing a new piece of software or hardware. Major service corporations plan and carry out a major overhaul of their delivery infrastructure. Energy and natural resource companies build new pipelines or new extraction operations. The list goes on and on.

During these times, they need specialized skills that they wouldn't need the rest of the time. That's where we come in. We recruit designers, planners, engineers, software designers, and many others too numerous to mention.

And why are these people willing to work on contract? Because they make better wages on their contract than they would as full-time employees, usually 30% to 35% better. As our profit numbers show, that money goes to them, not to us. Because they want exposure to as wide a variety of projects and technologies as they can get—the kind of exposure they cannot get as full-time employees of a single company. And because this kind of exposure makes them subject matter experts. They are one of Ontario's skill resources, and part of what draws these corporations to base their operations and their major projects right here in the province of Ontario.

If you use this bill to make our services unprofitable and unviable, you do not magically create full-time jobs. You create a situation where the decision for many of these companies is easy: Take the projects and the work elsewhere, to other provinces, other countries, anywhere else but Ontario, because nowhere else in the world is there a law like this one that's being proposed here in the province of Ontario.

We believe that our industry is being portrayed unfairly. We're being portrayed as uncaring parasites that exploit people and add no value to the relationship. But on the contrary, we do add tremendous value to the people that we engage and to the province of Ontario. We grow the same way any other business does. We invest in our sales and marketing teams and we secure and create jobs, which are not advertised and would never be advertised. This is a huge value-add to Ontario's economy and a great way to put people to work.

Ms. Chris Lusignan: We put a lot of effort to find the right people for each placement. Recruitment is not a

simple task. We have to meet with the clients, analyze the requirements of each assignment, locate and contact the candidates and interview them. Depending on the requirements of the role, we need to conduct background checks, security checks, education checks, drug checks, credit checks. All of these require time and money. We need to arrange interviews, take references, negotiate offer and start of work, provide WHMIS and health and safety training, orient the new hire, and so on.

For the clients who hire us, we are a portable HR department. Without us, they would need to do all these things, and those things require time and money, no matter who does them. And we do them well.

We also believe that our contractors are being portrayed in a way that's disrespectful and unfair. They aren't disadvantaged, they aren't ill-educated, and they are not unable to complain if they feel they are improperly treated. Any dissatisfied contractor can launch a complaint, which goes to our executive committee.

They are not trapped by contract work. On the contrary, they are, for the most part, using contract work to obtain something else they want, and to learn and to earn.

Some of our contractors use it as a route to acquiring their first Canadian work experience—and there are many; as a way to try out a potential employer or industry before signing on; to expand their resumé with new projects, industries and technologies; as a way to finance other pursuits; as a way to fill in gaps between other obligations or projects; as a way to make more money than they would as a full-time employee.

1250

I have here a collection of letters from TES contractors. There isn't time to read all of them, but here's a sample one:

"My name is Kate O'Donnell. I got my first full-time job when I graduated in 1989, and promptly lost it one year later when the early-nineties recession hit, and my company dumped all its junior staff.

"Staffing agencies picked me up and kept my career going along with contract work for the next 10 years. My agent helped me build my skills, and even used the flexibility of contract work to let me achieve my dream; for five years, I worked summers as a forest fire lookout; my agent filled the rest of the year with contract assignments....

"In 2001, when I had my daughter, I started my freelance writing business, using the experience I'd piled up working through staffing agencies, for high-profile clients including Bank of Montreal, IBM, Nortel and Bell Canada—places that never would have looked at me, as a layoff victim with only one year of experience. Now, thanks to my contract work experience, I run my own thriving business, and TES is one of my clients. I love the flexibility it gives me to work at home and be a stay-at-home mother to my two kids, one of whom has special needs."

That's one story, but there are many, many other ones that speak to very positive situations. There's copy in the brief as well.

I want to conclude by saying that TES supports the intent of Bill 139 to protect the interest of workers. All ACSESS members are committed to this goal, and we can't stress that enough. TES supports most of the clauses included in it. We already adhere to those professional practices requirements. But I urgently request that the committee revise the following two recommendations.

Under the recommendations for the continuance of employment while not working—

The Chair (Mr. Bas Balkissoon): You have 30 seconds.

Ms. Chris Lusignan: —delete clause (b) of subsection 74.4(2). The notion of implied continuance of employment is contrary to the well-established principles of employment law and existing provisions contained in regulation 288/01.

Secondly, remove 74.8, paragraph 8 of subsection (1), and exception (2).

These recommendations, as they currently stand, spell disaster for us, for our contractors and for the clients and industries we serve, and through them, for the province of Ontario. We have existing laws and employment standards to prevent mistreatment and exploitation of contract workers. We don't need more laws. We need better enforcement of the laws and standards we already have.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thank you for taking the time to be here.

GOOD JOBS FOR ALL COALITION

The Chair (Mr. Bas Balkissoon): The next presenter is the Good Jobs for All Coalition. Please state your name for the record, and then you will have 10 minutes. If there is any time left, we will have questions.

Ms. Tam Goossen: Good afternoon, Mr. Chair and members of the committee. My name is Tam Goossen. I'm one of the two co-chairs of the Good Jobs for All Coalition. The other co-chair, Miss Winnie Ng, could not be here today, so I am speaking alone.

The Good Jobs for All Coalition is a coalition of more than 35 community, environmental, labour, social justice and youth groups in the Toronto region. The coalition came together last summer to begin a focused dialogue on how to improve living and working conditions in Canada's largest urban centre. We hosted a Good Jobs for All Summit on November 22, 2008, at the Metro Toronto Convention Centre. We expected 500 people, but much to our delight and surprise, 1,000 people showed up to participate enthusiastically in our discussions.

At the summit, we all signed on to a declaration with a shared vision: Decent work is central to our fulfilment and well-being. Decent work provides people with a livelihood, an identity and a sense of belonging to the community. We must ensure there are good jobs for everyone, today and for the next generation. We reject policies which undermine and erode decent work.

One of the key workshops at the summit was on precarious work. A common sentiment among participants, many of whom were temp agency workers, was the shock that an underclass of temp agency workers stripped of their basic labour rights has been allowed to exist for so long in a democratic society like Canada's.

Major issues faced by these temp agency workers include workers having to pay hundreds of dollars to temp agencies in order to get any work, as many companies are only hiring workers through those agencies; frequent disputes regarding fees, deposits, vacation pay, and other issues between workers and temp agencies who act as if the Employment Standards Act does not exist, allowing them to make their own rules to maximize their profits at the expense of the workers; and workers who are confused by the definition of terms like "temporary" and "self-employed" when they work side by side with "regular permanent" workers on company payroll with full benefits, an experience which leaves them feeling vulnerable, disposable and exploited.

In this context, we applaud the government for taking the first steps towards rectifying the miserable situation faced by many temp agency workers. Bill 139 is an important signal that the government wants to protect its workers and bring fairness to the workplace. However, there are serious loopholes in the current version of Bill 139 which, if uncorrected, would undermine the very intention of the bill:

(1) What is the definition, and who is left out? When the government first introduced Bill 139, it said it wanted to stop agencies from charging fees for work, because that was unfair. Unfortunately, however, Bill 139 as drafted will allow about one third of the employment and staffing industry the leeway to charge workers fees for work. That is because the government has chosen to narrow the scope of Bill 139 so that only temporary assignment arrangements will be regulated, not permanent work placements.

There are documented cases where workers are charged fees to register for job placement services for permanent or temporary work that may or may not materialize. These include security guard agencies, cleaning services and live-in caregiver agencies. This is akin to moving one step forward and two steps back, and is not at all in keeping with similar legislation in jurisdictions like BC, Alberta, Manitoba, Nova Scotia, Nunavut, Yukon and the Northwest Territories.

We highly recommend that the proposed definition of "temporary help agency" and the scope of section 74.1 be broadened to address these concerns.

(2) No six-month exception to the rule: Currently, temp agencies restrict client companies from directly hiring agency workers by imposing conditions through fees and contracts. Bill 139 explicitly prohibits this practice, yet there is a six-month exception to the rule. This means that temp agencies can come up with ways to trap the workers through a series of contracts lasting no longer than six months. Because of this exception to the rule, many temp agency workers will continue in a precarious work situation which gives them 40% less

pay, little work stability and almost no benefits. The very purpose of the bill—to better protect temp agency workers and place more responsibility on agencies and client companies—will thus be rendered almost meaningless.

We strongly recommend that this six-month exception to prohibitions on barriers to employment be removed.

(3) Termination and severance: In theory, temp agency workers are currently entitled to termination and severance payments like other workers, unless they're considered "elect to work." However, it has been a practice in the industry to misclassify all agency workers as "elect to work" to avoid paying termination and severance.

Under Bill 139, temp agency workers would get termination and severance pay only if they are terminated by the agency or have spent 35 weeks in a row without any work assignments. Essentially, this would require temp agency workers to be on call for assignments every day for 35 consecutive weeks without any right to be sick or have family emergencies. All the agency has to do, to avoid paying termination and severance, is offer a worker one day of work before the 35th week. Under Bill 139, nothing can be done to stop this unending and very vicious cycle.

We highly recommend that this "elect to work" exemption be removed by regulation, and no special rules set for termination and severance. Section 74.11 should be deleted.

Finally, I'd like to conclude by referring to the declaration mentioned earlier. With that declaration, we call on people from all walks of life:

- to demand an economy with good jobs for all;
- to build social solidarity in our communities, our workplaces, our organizations and public institutions;
- to insist on public policies from all orders of government that support the goals of a just, equitable and inclusive society;
- to require all with power in our society to exercise that power for the common good;
- to ensure that economic activities are sustainable, enabling future generations to meet their needs while living in harmony with our planet and with each other.

Thank you for the opportunity to share our views with you, and thank you for exercising your power for the common good.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have time for questions, one minute each, and we'll start with Mr. Bailey.

Mr. Robert Bailey: Thank you, Chair. Under the part about the six-month exemption, by that, would you expect the employment agencies to offer their services for free? What incentive would there be for a temporary agency to place workers if they wouldn't be able to recover those?

Ms. Tam Goossen: I don't think we expect temp agencies to offer all their services for free. I think we expect the temp agencies to play by the rules. What we are worried about is that because of the practice currently in place, there could be a number of temp agencies that haven't been playing by the rules. They can use this as

another way of trapping the workers in another vicious cycle.

The Chair (Mr. Bas Balkissoon): Thank you. Mr. Rosario?

Mr. Rosario Marchese: Mr. Marchese, maybe.

The Chair (Mr. Bas Balkissoon): Oh, jeez, sorry.

Mr. Rosario Marchese: But it's all the same.

The Chair (Mr. Bas Balkissoon): My apologies.

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Mr. Rosario Marchese: Tam, a quick question: In Europe, legislation requires equal treatment in wages and working conditions for workers hired through employment agencies. If they can do it, why do you think we can't? Why can't we do the same?

Ms. Tam Goossen: If I may bring a little bit of personal information to this, when I first came to Canada in 1970, I had to go to an agency as well. But in those days, there were also government employment services that people could go to. I think a lot of people would be in a better position to look for work with full confidence in the delivery of the service if it was a fully regulated service either run by the government or, really, if the government did its job to make sure its own legislation on the books is fully enforced. Times have evolved since I came, but it's unfortunate that since the repeal of the Employment Agencies Act in 2000, I guess, the field became—dare I say—a no-man's land. At least that's our impression from talking to workers and personal experiences. I think this bill is meant to rectify the situation. That's why we're worried. We want to make sure you do the right thing.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move to Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for appearing before us. Can you explain to us what your view is in terms of how enforcement should be done by the Ministry of Labour? What's your view on how we can enforce the rules and laws that we make?

Ms. Tam Goossen: This is just from my own very limited experience. I would think that you have inspectors. From some of the discussions that we've had with workers, they were amazed that all these infractions could happen at the workplace, yet they've never seen anybody from the government to find out what's happening. That's why there's a strong sense of cynicism, as if they were working without any employment standards. Most of the workers we talked to were amazed that there was such a thing as the Employment Standards Act. Obviously, somebody has to enforce that legislation, and I would think that your front-line enforcement officers would—

The Chair (Mr. Bas Balkissoon): Sorry, we've got to move on. Thank you very much for taking the time to be here.

Ms. Tam Goossen: Thank you.

LORRAINE FERNS

The Chair (Mr. Bas Balkissoon): Our next presenter is Lorraine Ferns. Please state your name for the record,

and you have 10 minutes. If there's any time left after your dissertation, we will have questions from the others.

Ms. Lorraine Ferns: Okay. Hi. My name is Lorraine Ferns. I'm here because my experience working with temp agencies in Ontario has been so disheartening and hard. I'm here to speak on the importance of improving protection for temp workers so that other temp workers will not have to go through what I have.

I am now at a point in my life where I have become depressed and hopeless about the whole job situation. I believe that if Bill 139 had been in place way before this, my experience might have been quite different, and I would be employed to this day. I have worked for about two years as a temp in Ontario. I worked as a temp worker in Alberta and Montreal, and I have to say that Ontario has been the worst experience. The attitude I find here is almost flippant towards temps, and it was very discouraging at times.

Bill 139 would be good because I think an employee should know more about the assignment they are going to. Let me give you an example. On one assignment, I was told that I would pack boxes at a food packaging place. They said it was an easy enough job, but when I got there, I found that the boxes weighed at least 30 pounds and had to be packed and stacked onto pallets up to five feet high. We had to do it fast, as the boxes were coming down a conveyor belt.

I was working with another woman from an agency who was struggling like me. She told me that she had just had surgery. She still had the stitches. She had told the agency she could not lift but they sent her to this job. I was horrified. One of the men at the food company also got really angry and quite arrogant towards us because we could not keep up. I just felt like crying that day. The other lady and I considered walking out because it was so hard, but we could not walk out because we knew we wouldn't be given another placement. I spent \$40 for work boots for that particular job, but couldn't go back there as the work was just way too heavy, and I wasted the money.

We need information about assignments, to protect our health. On another assignment I was sent to a huge dry cleaning place that stunk of dry cleaning fluids. They said it was clean, but I had a huge allergic reaction to the dust and fibres from the frame dusters that I had to fold.

Temp workers bear huge costs when work suddenly ends without notice. We need to know how long assignments are and get notice when the job is going to end before the contract is up. Otherwise it is the worker who is left in the lurch. I was assigned to work in a clothing store, along with five other temps. The store was busy and we were told there was plenty of work. They gave us the impression that we would work there for quite some time. But after only three weeks, I was told by another temp that we had no more work as of the next day: They were cutting our hours to nothing. I phoned the agency to find out what was going on. My supervisor at the agency got annoyed and said, "Somebody over there has a big mouth. And yes, your hours are cut." Her attitude was, "So deal with it."

I was so angry and disgusted at how we were treated. I had bills to pay, I lived on a budget, I had to buy food etc. The agency acted like, "Whatever." Temp workers need notice if we are going to be laid off, or pay in lieu of notice. We found out why we lost our work: The company wanted to hire younger people and students who were coming out of school. The company just used us to fill in. They no longer needed us. I believe our supervisor knew the work would be less than promised and kept it quiet so we wouldn't find other jobs and leave the agency in the lurch. If I had known we were to be dumped so easily, I would have spent more time looking for longer contracts somewhere else.

When you are on an assignment, you do not have time to look for another job. You also become comfortable and you start to get to know the people you work with. The clothing company often told me that I was an excellent worker. I enjoyed the job. I wanted to apply for a job there because they were hiring, but I couldn't, because the agency wouldn't let the company hire us. Bill 139 should not let agencies stop us from being hired by the company.

I finally found another placement in an office through a different agency. The placement was supposed to only last six weeks. I ended up there for 15 months as the assigned company felt I was a good worker. I stayed in the company that long because they said they would hire me on contract. I worked for \$11.76 an hour. I worked as hard as the other workers, yet they were getting way more than me. I found it very difficult at times and felt exploited, as I had no rights there. I was there for so long I could not join a union, so the union could not help me. I started there as a scanner and ended up working at reception, data entry on the in-house data system, and I started to upload documents onto their intranet website. I was given an assignment to do on my own, but that was quite a big project of weeding, filing and checking for missing documents. Over those 15 months, with increased job duties, I was never offered extra money. I had to ask for more money with the added job responsibility, and only then did the agency pay me 90 cents more per hour. There were also other temps who were waiting and hoping to be hired and who would sometimes, like myself, get discouraged.

Another aspect of just working in general, especially in an office, is you have to worry about your appearance. You must look neat and have certain office attire, which costs money. After I paid my bills, there was not much of my pay left over, so I found it very difficult to keep up. I had to struggle to buy new shoes etc. The people in the office in general got quite high pay and dressed quite well. In this kind of setting, how you look is an important part of ever trying to move forward. Appearance matters. Like I said, clothes cost money, so I was expected to wear and buy some clothing. Being paid less than your coworkers creates many barriers as a temp worker.

One thing, however, that I found confusing was how they went about my holiday pay. Sometimes they gave it to me and other times they didn't. Finally, I asked my

supervisor what was going on and she told me the agent didn't have to pay me holiday pay because I was an "elect to work" employee. I thought this strange, as they paid sometimes and not others, so I challenged them on this at the end of my employment. I ended up receiving \$600 in back pay. That's how much they owed me. That is a lot of money. I had to struggle with my money during my employment without that \$600. It was very hard to survive. I could not believe that after 15 months, they would not even have the decency to pay me the holiday pay. Well, I did get my \$600, but they never gave me another assignment: They got rid of me. So I guess I learned that if you stick up for yourself, you get punished. That is why this bill is so important.

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Another example: I had another position for three months and did not get any holiday pay, which came to a couple of hundred dollars due to about three different holidays during the three months I worked there, and because of this I could not get ahead and fell behind in my bills. I ended up having my electricity cut off about two weeks before Christmas. I think the guy who came to cut it off felt a bit disheartened for me also because it was just before Christmas.

Temp workers are quite often seen as second-class workers. For instance, I had a friend from Ireland who needed a job. She worked as a temp and told me her boss was so awful to her that he refused to use her name and right there in front of her referred to her quite gruffly as "the temp" and would not acknowledge she was in the room. I also went without pay one week because one of my companies took their time signing my pay stub. This happened just about every other week. I was sweating I would not pay my rent on time. I was freaking out.

I can tell you many stories of how temps are looked down on. As well as worrying about all the other obstacles, there is a huge emotional factor. Many temps would like to continue to work at their assigned place and really want to just have a steady job and a little bit of security. You also get to know the people you work with and hope you can stay on. That is why it is a shame there's such a barrier for people in not being able to apply for a job with a company within the first six months.

Bill 139 is very important. Right now it is disheartening, especially with a recession. I myself am now confused about how to get employment, depressed, and I'm very disheartened. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. We probably have time for one question each. We'll go to the member from the NDP, Mr. Marchese.

Mr. Rosario Marchese: Lorraine, you did have a chance to look at the bill, correct?

Ms. Lorraine Ferns: I know what the bill is.

Mr. Rosario Marchese: Are there any things in the bill that you would like to improve or are you just happy with what there is?

Ms. Lorraine Ferns: I think that everything's important. I think there are certain things—there is some-

thing I didn't mention in here about paying for finding a job. I don't agree with that because I did pay for one job, which was doing background work. You pay your money and then I had one time when nobody called me. I paid out this money and didn't get a call back, so I just didn't think that was right. I think that is definitely important.

I don't understand why people should ever have to pay to look for work, especially with the recession right now. I'm actually amazed that people have to—people want jobs. People want to work. There should not be any barriers for anybody for employment.

Mr. Rosario Marchese: I just want to thank you for bringing your story to us.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Ms. Ferns, I want to thank you for your courage and your time here. I can certainly tell you that what you've said is dead on in terms of what happens out there to people such as you who find work through temp agencies. Again, I really, really want to thank you for your story and for your presentation.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Thank you, Ms. Ferns, for coming in today. Do you feel that with the economy we're in right now, it will be important that we have temporary agencies to provide employment as the economy recovers? With improvements like this bill, we'll still need temporary agencies—sorry.

Ms. Lorraine Ferns: I think there definitely should be an improvement for temp agencies. The bill is very important because I've noticed that it's almost like temp agencies are popping up just so they can make a buck. It's almost like, "Let's start a business. Let's slap 'temp agencies' on there." I feel like temp agencies are good in one way, but there definitely needs to be something in place to make sure they don't get out of hand. I mean, they're great in one way, but in another way it's kind of like—if I go to Monster.com for my kind of work, for data entry and filing, everything is a temp agency. There's that barrier. I have to go to a temp agency, and I feel like that's not fair.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here with us.

RANDSTAD CANADA

The Chair (Mr. Bas Balkissoon): The next presenter is Randstad Canada. Can you please state your names for the record. You have 10 minutes, and if there's any time left after your presentation, we'll allow questions of all three parties. Please go ahead.

Mr. Christopher Drummond: My name is Christopher Drummond. I'm the vice-president of marketing and corporate development of the Randstad Group in Canada. I'm here with Daniel Plante and Sébastien Girard, who have accompanied me today. I want to thank you very much for the opportunity that we have to make this presentation, to make our case and our point of view known as far as this bill is concerned.

Randstad Canada is one of the largest staffing and placement agencies in the country. Since 1981, Randstad and its divisions have helped Canadians find work in areas as diverse as general and skilled labour, technology, finance, engineering and HR. Temporary workers play a big part in the success of our company.

In 2008, we engaged 35,000 temporary workers; over 16,000 of these were in Ontario alone. Our customers include Canada's top employers in both the public and private sector. In fact, we're proud to say that we count the province of Ontario among our many customers.

We have earned a number of awards for our business practices, and in the past we have been named one of Canada's 50 best-managed companies. We've received two CIPA awards for the innovative use of technology, and we consistently make the lists of Canada's top employers.

We are proud of the work that we do in this province. We're proud of the contribution that we make, and nowhere is this more important than in the tradition that we have which is, we think, particular to our organization of giving back to the community. Each year we raise hundreds of thousands of dollars through employee donations. To give just one example, we host a charity auction once a year in one of our branches. It's open only to employees, and each year we use this auction to raise over a quarter of a million dollars, which we then donate to charities. Among the charities that we support are Sky's the Limit and Pathways to Education. Through these organizations, we've put almost 1,000 computers in the hands of underprivileged youth who want to pursue careers and change the things they're doing. We also support local charities across the country. One such charity is the Jennifer Ashleigh Foundation. Through our work with this organization, we've helped over 600 families with disabled children gain access to additional health care and support services. We do all of these things because we care about our status in the community. We care about giving back to the community. We care about the people with whom we work.

It's interesting, because as I've sat here, I've listened to a lot of the harrowing experiences of the people who preceded me, and I would share their concerns about the things that have happened to them. I would also say that these are not practices that are practised by companies such as Randstad. We take great pride in treating people with respect and treating people as they need to be treated, and in giving them opportunities to further their careers, whichever way they would like to do that, whether it's in full-time, permanent positions or temporary positions or contract positions.

Temporary work is a flexible alternative to permanent, full-time employment and it helps people, as we see it, gain experience as well as new skills. It's also a way for many people to support other pursuits, particularly in education and the arts. I remember Mary, a new Canadian who came to our office last year. She was looking for administrative experience. We helped her with a number of temporary assignments. After a few months,

she was offered a full-time position. She sent us flowers that day. The next time we saw her, tears were welled up in her eyes and she couldn't thank us enough. Mary still keeps in contact with us and she regularly sends us candidate referrals.

There's another story of Patricia, who graduated with a medical diploma but couldn't find work. She came to us discouraged. We placed her in a temporary assignment and within eight weeks she was given the opportunity to take on a full-time position because she had impressed her employer so much. Like Mary, she was pleased. It's hard to describe the look on her face. In fact, it's hard to describe the look on anyone's face when they get an opportunity to pursue a career in the way that they'd like to.

These experiences are played out time and time again in our offices across the country. It's one of the things that makes our business so rewarding, and I would venture to say that most of the people in our business are attracted to work in it—certainly in Randstad—because of the joy and satisfaction they get through helping people pursue their careers.

This is why we applaud the efforts of the government to strengthen the protections offered to temporary workers. Bill 139 is a step in the right direction. However, we are concerned about two provisions of the bill, which we feel will be counter-productive and actually end up hurting the very temporary workers the bill hopes to protect. These are outlined in detail in our submission, and I won't go into all the technical details here. I will only say that they involve (1) the requirement of staffing firms to maintain the employment status of temporary workers even though they are not working, and (2) the banning of client fees after six months when a temporary worker is transferred to full-time employment. We're concerned about these two provisions, which we feel, though they're well intentioned, are most surely going to increase employer costs and make temporary workers less attractive in the province today. In the end, these provisions will reduce employment opportunities available at a time when we can least afford it.

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The requirement for staffing firms to maintain the employment status of temporary workers, even when they are not working, will create increased costs and liabilities for temporary staffing firms and our clients. This requirement also imposes a standard on temporary staffing firms that no other industry has been asked to assume. If it prevails, we expect to see a decline in employment opportunities for temporary workers.

As for the banning of client fees when a temporary worker is transferred after six months to full-time employment, again we understand the intent is to encourage the conversion of temporary workers to full-time status. This already happens, however. In our experience, conversion fees of the kind that we charge at Randstad are not a sufficient reason for most employers to not offer temporary workers full-time employment.

At the same time, these fees defray the costs associated with our services, which include significant adver-

tising, networking and recruitment, background screening, administrative work and so on. Therefore, we respectfully ask that the members of the committee review these sections. Specifically, we ask that you remove the section dealing with the continuance of employment to temporary workers when they are not working and that the section banning client fees when a temporary worker is transferred to full-time employment also be removed. The details of our requests are outlined in full in our formal submission.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have time for questions, and it would be Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much. You mentioned that you do charge a temp-to-permanent fee.

Mr. Christopher Drummond: Yes, we do.

Mr. Vic Dhillon: On average, what percentage would that be?

Mr. Christopher Drummond: It changes; it's different. I can't give you one particular percentage. It changes according to the contract that we establish with the customers we're dealing with.

Mr. Sébastien Girard: Therefore, it's different.

Mr. Christopher Drummond: It's also different depending on the kinds of roles that we're talking about. There are temporary roles. There are also contract roles with independent contractors, and they're all different.

Interjection.

Mr. Christopher Drummond: Yes, it's also on a descending scale, so that the longer a temp worker works with a client, the less money is paid as a fee at the end.

Mr. Vic Dhillon: For example, say, an admin assistant, would you be able to provide some sort of data on approximately how much you would charge?

Mr. Christopher Drummond: An admin assistant who has been on-site for four months or so—

Mr. Sébastien Girard: Three months and a half.

Mr. Christopher Drummond: Three months and a half, then, does not require—there is no charge at that point.

Mr. Sébastien Girard: Yes.

Mr. Christopher Drummond: There are other instances, particularly with our IT contractors, for example, where it goes beyond six months. That's the area we're particularly concerned with. So no, temporary workers, after they've been on for a few months, do not have to worry about the fee.

The Chair (Mr. Bas Balkissoon): Thank you very much. Mr. Bailey?

Mr. Robert Bailey: Mr. Drummond, can you give me an example—we understand about the two amendments that you're concerned with. What opportunity would new Canadians, immigrants to Canada and Ontario, have to work through agencies like yours?

Mr. Christopher Drummond: One of the things we have some difficulty with in the country, as you know, is integrating new workers into the economy. Very often their qualifications are not as well recognized. Again, we support the recognition of these qualifications and work

hard with many groups to make this happen. What we believe temporary work does is give new Canadians an opportunity to gain the experience that they need to be able to move into the kind of roles that they want to. We see that happen time and time again.

Mr. Robert Bailey: Do I have time for one more?

The Chair (Mr. Bas Balkissoon): Yes. Go ahead.

Mr. Robert Bailey: If the bill's implemented as written—hopefully we'll make some changes, if we see improvements, all along the way—what impact at the end of the day do you feel there would be to your agency and to other agencies that are trying to provide employment and doing a good job? We know there are some that need improvement out there, but what would be the outcome at the end of the day if it's implemented as written?

Mr. Christopher Drummond: If it's implemented as written, we believe it will discourage employers from using temporary work as often as they do. It will also discourage temporary work agencies from engaging people who cannot be placed for long periods of time and therefore can contribute to the organization. People who can only work on a very part-time basis, a few days a week or so on, will not be as attractive to employment agencies. So we truly feel that it will harm those who are least advantaged and most in need of protection by this bill.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo.

Ms. Cheri DiNovo: I'm sorry, I missed the beginning of your deputation.

My first question is about the province of Ontario and its use of temporary workers. Do you have any idea what percentage of workers in the province of Ontario are temporary or hired through a temporary agency?

Mr. Sébastien Girard: That's a good question. I know the spending in the federal government, but I don't know the province of Ontario alone.

Mr. Christopher Drummond: I'm afraid we don't have that. We know how much, of course, is spent with us, but we don't know how much is spent altogether.

Ms. Cheri DiNovo: We've submitted a freedom of information request. That's the only way to find that out.

In terms of the temp-to-perm fee, have you ever had a client company refuse to pay that fee or give you a hard time about it?

Mr. Christopher Drummond: Refuse to pay that fee? No.

Ms. Cheri DiNovo: The reason I ask that is, I know that agencies in the past have engaged in practices—I was in the business myself—of some signing, for example, of non-competition clauses when you hire on a new staff in your own agency, that would not stand up against a charter challenge. My concern with the temp-to-perm is that it wouldn't stand up against a charter challenge either, being seen as a possible barrier for employment, even though it's routinely used. I'm just wondering if a client company has ever said, "Sue me."

Mr. Christopher Drummond: No. Again, this is worked into the contracts that we sign with our clients. They see this as a cost of doing business. They do not see this as an impediment to hiring people full-time. In fact,

we have many, many examples of people who work part-time who impress their employers very much and are then asked to come on. I think it's—

The Chair (Mr. Bas Balkissoon): I have to ask you to cut it short.

Mr. Christopher Drummond: Oh, my goodness. Okay.

The Chair (Mr. Bas Balkissoon): Sorry to be that way. The answers are too long.

Mr. Christopher Drummond: All right.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be here.

KELLY SERVICES

The Chair (Mr. Bas Balkissoon): The next presenter is Kelly Services.

Please state your name for the record. You have 10 minutes.

Ms. Karin French: My name is Karin French. I represent Kelly Services (Canada) Ltd. Thank you for the opportunity to share my thoughts on Bill 139, An Act to amend the Employment Standards Act.

Thirty years ago, I started my career as a temporary worker. As a student, I wanted flexibility and variety because I was unsure about what career path I wanted to follow. In my various jobs, I learned how to fold engineering maps, I made ID cards, I assembled Easter baskets, I packaged test tubes, I helped a hospital process patients on the midnight shift, I made telemarketing calls for a charity, I did filing for a government office, and I answered phones for an oil company. Today, I'm the vice-president and general manager of Kelly Services (Canada).

Many of you have heard of Kelly Services, but for those of you who have not, Kelly Services is a pioneer in the staffing business and has been operating in Canada since 1968. Kelly works with temporary employees, client firms and our own recruiters to put thousands of Canadians to work each year. In 2008, Kelly employed over 25,000 Canadians.

Last week, when I was listening to these proceedings, I heard many people imply that temporary employment is not a real job. I can assure you it is a real job. We provide real jobs to Canadians in many different fields, from accountants to clerical workers to scientists and light industrial. The particular assignments may be temporary, but the employment relationship is not. We are the employer of record. We offer salaries above minimum wage, we pay vacation pay, and we pay statutory holidays, according to our legal obligations. When required, we also issue a record of employment.

We offer skills training, free of charge. We offer employment variety and flexibility, free of charge. We act as career counsellors, free of charge. We provide access to direct employment at many respected companies, again, free of charge to our employees.

Our temporary employees are an integral component of business in Ontario. Our clients represent manu-

facturing, financial institutions, technology, logistics, energy and, yes, government. We compete fairly in the marketplace every day for the best employees and the best client companies.

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Our temporary employees have many reasons for choosing to work for Kelly. In some cases, a temporary employee wants a flexible schedule or employment variety, and the only way to get that flexibility is through temporary employment.

Other temporary employees are new Canadians. These people are recent arrivals to Canada and, by working with Kelly, they have the opportunity to gain necessary experience and skills. I've overheard individuals on the subway recommending Kelly Services to their friends and family. In fact, over 70% of Kelly temporary employees are referred by other satisfied employees.

Still other temporary employees are those between jobs. This employee may have been let go from another job and is working as a temporary employee as a bridge to a new career. And, of course, many of our temporary employees are returning to the workforce. Some parents choose to stay home to raise a family; some individuals choose to stay home to care for an elderly loved one. These people often turn to Kelly to re-enter the workplace to gain the necessary confidence and skills before turning to a new career.

In each of these cases, Kelly is a valuable partner for the temporary employee. Employment with Kelly Services isn't for everyone, but neither is banking, manufacturing or, in my experience, I learned working in engineering was not for me. However, our industry should not be subject to laws that are different than for any other employer. In the current economic environment, Ontario should not do anything that lessens flexibility for its employees and tilts the balance against Ontario.

I'd like to share some quotes from some of our employees:

Brenda in southwest Ontario says: "I just want to express my sincere gratitude to you throughout my tenure with Kelly. You guys were really awesome... This is what I was looking for and even more. I am truly happy. Without you guys this wouldn't be possible. Once again a big thank you to you and the rest of the staff at Kelly Services. You guys are absolutely the best. Thanks a million. I really do appreciate it."

This example is from a new Canadian who was placed on an assignment in Mississauga: "Thank you for your help and encouragement. Now I am working with RBC as a fund accountant since August 2008. I am grateful to you for your help, guidance and support to reach here. I was taking stock of my past few days and sharing the talk with my family. We are thankful to you and Kelly Services for the entry into RBC itself as nobody was known to us in those days of 2005-06 ... Again, thank you so much."

While these words from our temporary employees speak volumes, our recruiters also have a special voice.

With over 300 full-time employees working in 40 locations throughout Canada, these are the people working closest with our temporary employees, working to find them employment, helping them to gain new skills and open the door to regular employment for many of them, if they choose.

I could tell you many stories from our recruiters, but this one stands out from our Brampton office. We had an employee named Ophelia. She was in an abusive relationship and one morning came running into the office and tried to hide from her boyfriend who was right behind her. He burst in and began kicking her. I removed him from the office, locked the doors and called security. I talked to Ophelia and told her Kelly Services would help her get work regardless of what province she was in. Ophelia pressed charges and her boyfriend went to jail.

Ophelia was sent to a western province where I helped her get in touch with the local Kelly office there. They found her work right away. I heard from Ophelia about a year later. She was going perm at one of her Kelly assignments. Ophelia was a different person. She was happy, whole and safe. And Kelly Services helped her with gainful employment so that was one thing she didn't have to worry about.

So, as you can see, Kelly Services places a high value on the partnership we have with our temporary employees.

In closing, I'd like to request that you support the changes to Bill 139 requested by ACSESS. These changes can be found in my written testimony and you have heard what those changes are. However, in the interest of time, I'll forgo reading those changes and, instead, answer any questions that you may have. Thank you.

The Chair (Mr. Bas Balkissoon): We have time for one each. Mr. Bailey.

Mr. Robert Bailey: Thank you for coming and making your presentation today, Ms. French.

I know I've asked this question before, but I'd like to get it on the record again. We understand what your suggestions are for changes. What would be the impact on your business and businesses like yours if this bill was put into effect the way it's written?

Ms. Karin French: I think there would be an impact on our business, because we would be unable to put more Canadians to work. I think that it would impact the flexibility that Ontario employers look to organizations like Kelly Services for. If we do not have the opportunities from our client companies, we're going to be unable to put more Canadians to work every single day.

So the impact would be large, not only to employers, who I think would lose their flexibility, but also to workers, because there would not be the availability of jobs for them.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Thank you for your deputation. The government and those who are supporting Bill 139 in its present format would say that this is simply putting upon you the onus that is put on every other employer as well. What would you say to that?

Ms. Karin French: I believe that it does. I think there should be a level playing field. I think that all employers should be subject to the same types of regulations.

The two that have been listed in here that we are asking for changes to are not those that are put onto other employers. So, whether it is the continuation of employment while they are not working—that would not happen whether you were working for the government or whether you were working for Kelly Services.

Ms. Cheri DiNovo: And have you found, since you've been in business with Kelly Services—and you've obviously had a long record with them—that more and more companies are using temporary, and that temporary positions comprise more and more of their workforce?

Ms. Karin French: I think it goes in cycles, like anything in the economy. I think you'll find that there are some industries that go up and down, and there are some cycles in employment. I certainly think that it is a very viable resource for talent management that people use. The business is changing, so it varies every day.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Can you tell us what your markup is? I know it might not be one number across the board, but maybe you could give an example of different jobs and what the markups are at Kelly Services.

Ms. Karin French: It's hard to say that. The reason I say that is that the definition of "markup" is very, very different, and a lot of people use words differently in what it comes to mean. Is it a markup over a pay rate or a burden, or what comprises that?

As well, we enter into contractual agreements with customers that dictate what our rates are, and those are varying, depending on the size of the organization, how much they use, the types of skills, the types of jobs.

There really isn't a way to give a specific markup, because it is certainly varying across many, many different lines.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here.

Ms. Karin French: Thank you.

CHINESE INTERAGENCY NETWORK OF GREATER TORONTO

The Chair (Mr. Bas Balkissoon): The next presenter is the Chinese Interagency Network. For the record, would you state your names, please. You have 10 minutes. If there's any time left after your presentation, we will allow questions from the various parties.

Ms. Karen Sun: Hi. My name is Karen Sun. I am the executive director of the Chinese Canadian National Council. This is Yiman Ng. She is a health promoter with Queen West Community Health Centre. We're both here today representing the Chinese Interagency Network labour committee.

The CIN labour committee is comprised of eight agencies, including the two I've just mentioned, as well as the

Centre for Information and Community Services, the Metro Toronto Chinese and Southeast Asian Legal Clinic, Injured Workers' Consultants, St. Stephen's Community House, Toronto Chinese Community Services Association, Woodgreen Community Services, and the Working Women Community Centre.

Our committee deals with a number of different labour-related issues, including providing submissions to different levels of government, providing public education around labour-related issues, and sharing resources, information and strategies around labour issues for the Chinese community in Toronto.

Ms. Yiman Ng: First of all, the CIN labour committee would like to commend the government of Ontario for putting forward Bill 139 to review and update policies to better protect workers as temp work becomes an increasingly common way for people to find employment.

Our economy is changing, and the types of jobs that are available to people are also changing. It is increasingly difficult for anyone to find full-time permanent employment, but even more so for those from racialized or marginalized communities. For many people, working for a temp work agency is the easiest way for them to enter the job market. Unfortunately, many of them find it difficult to exit temp work for the stable, full-time employment they really want.

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We believe that a healthy society has citizens who are able to plan for their families and their future. For this reason, we feel it is not in the best interests of Ontario to support a system that encourages employers to hire people on a temp basis. That said, we are pleased that the government has moved forward with this bill. However, we feel that changes are required to ensure that the bill truly protects the workers who are the most vulnerable in this situation.

Since the start of the economic meltdown in late 2008, it has become even more challenging for Chinese immigrant and refugee workers to find jobs. These workers are not only subjected to fierce competition in getting jobs, they are vulnerable to exploitation by their employers. Many employers are hiring workers increasingly through temp work agencies in order to cut costs. Even though temp workers may do the same tasks under the same instruction as permanent workers, they do not receive the same benefits or pay and are marginalized simply due to their temp status. Temp workers feel that they have no rights in the workplace or with temp work agencies and face multiple barriers in voicing their struggles.

The proposed Bill 139 addresses some of the issues faced by temp workers, such as mandatory provision of assignment information to workers and the prohibition in charging fees from the workers. However, the issues faced by temp workers are complex. The proposed Bill 139 still needs to be broadened in order to provide more comprehensive protection for these workers, especially those in racialized and marginalized groups, such as women and newcomers.

Based on our experiences in working with temp workers, we recommend that Bill 139 address these issues;

however, we would like to make some amendments to provide further protection to the workers.

On equal pay: Some temp workers continue to work full-time in the same workplace for six months to a year or more. When a job lasts that long, it is no longer temporary. In addition, they often work side by side with workers who are hired directly by the workplace employer. They do the same job and receive instructions from the same supervisor, but their status and pay are very different. Workers from temp work agencies are usually the underclass in the workplace. Their pay is below the pay range for the same work. This is because temp agencies continue to get their cut as long as these workers are still on the agency's payroll. These workers do not receive any benefits. They are the most vulnerable, exploitable and disposable employees because they only have temp status in the workplace.

Bill 139 prohibits temp agencies from charging fees from workers and requires them to provide assignment information, which includes the rate of pay. However, the temp agencies and client employers can still take advantage of temp workers by paying them less to do the same work as permanent workers. The workers may not know that their wages were being cut because the pay rate on the paper does not reflect the pay rate that permanent workers receive. Temp work agencies should be required to pay their workers within the same pay range as the permanent workers and this pay range should be clearly stated in the assignment information in order to ensure transparency and fairness.

On termination: Bill 139 states that workers require 35 weeks of non-assignment in order to get termination entitlement. This is very harsh on these workers, considering the sporadic nature of the jobs that they get, and the "excluded week" is not being counted as time laid off. In essence, these workers have to wait for a much longer time to get their entitlement in comparison to non-temp workers under the Employment Standards Act. In addition, discrimination in job assignments will further jeopardize racialized and marginalized groups in getting entitlement.

All workers under the ESA should be treated with fairness and equity. Therefore, temp workers with 13 weeks' layoff within a period of 20 consecutive weeks should be entitled to termination or severance pay. As well, "excluded week" should be included because of unforeseeable circumstances, such as sickness or family emergencies. We recommend that the "elect to work" exemption be removed for termination and severance pay, as it has been for public holiday pay. In addition, home care workers should be included under this provision immediately and not be treated as second-class workers until 2012.

On issues of record of employment, most workers get deductions for EI premiums in their paycheque from temp work agencies. There have been complaints from temp workers about getting their ROEs. Some temp work agencies tell workers that it is not their responsibility to issue ROEs. Workers are being shuttled between the

temp agencies and the workplace employers trying to get their ROEs. In another scenario, workers finish their assignments and want their ROE, but the temp agency, which is their payroll employer, will tell them that they have not been laid off. The workers are still on the agency's payroll and may still be referred to new assignments. In reality, it is a layoff. It can be a long time before the workers get their next assignment. They may miss their opportunity to apply for EI even when they are eligible for the benefits.

It is strongly recommended that Bill 139 specify that it is the responsibility of the temp work agency to issue ROEs. Not having a job puts tremendous stress and financial burden on temp workers, who mostly come from low-income, marginalized groups. Having access to the EI benefits that they have paid into will certainly help to ease their financial burden.

Ms. Karen Sun: The six-month restriction in hiring temporary workers by workplace employers is also a problem. We strongly object to any barriers to permanent employment, such as fees charged to client businesses or employees of agencies. We know that some agencies currently have provisions in their contracts with workers stating they were required to pay agencies \$500 if they successfully seek employment with the referred client employer by themselves. These workers are not the property of the agency. Workers in Ontario are free to terminate their jobs with any employer, even if this is a long-term employer, and find jobs with other employers.

Bill 139 allows temp work agencies to charge workplace employers a fee if they hire the workers within six months from the start of the assignment. But the temp work agencies have already charged a fee from the workplace employers at the outset for each assignment. This is double dipping. This extra fee will deter workplace employers from hiring temp workers on a permanent basis, even though it may be to their benefit, as these workers are already trained to do the work.

We strongly object to this clause, because it is a violation of workers' rights to gain permanent employment. This will only set up a structural trap for our most vulnerable workers by further victimizing them from getting decent employment opportunities. Workers are not the property of temp work agencies. Any worker should be able to terminate their job with any employer and find jobs with others.

Enforcement is another issue. There's currently a triangular relationship between the workers—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Karen Sun: —the temp work agency and the workplace employer. When a dispute occurs, the two employers will usually place the responsibility on the other party, so we highly support joint liability for the temp work agency and the workplace employer for any violations under the ESA.

In summary, we at the Chinese Interagency Network labour committee would like to recommend that Bill 139 be passed, but ensure that changes are made to address

the following: Temp work agencies should be required to pay their workers within the same pay range as permanent workers, and this pay range should be clearly stated in the assignment information in order to ensure—

The Chair (Mr. Bas Balkissoon): Thank you very much.

Ms. Karen Sun: Thank you.

The Chair (Mr. Bas Balkissoon): I realize your recommendations are in a written submission, so the members have it. Thank you for taking the time to be here.

KELLY TOM

The Chair (Mr. Bas Balkissoon): The next presenter is Kelly Tom. Please state your name for the record, and you have 10 minutes.

Mr. Kelly Tom: My name is Kelly Tom. Thank you for taking the time to listen to me.

I have been employed as a temporary worker for several years. These are some challenges that I faced as a temporary worker that were a detriment to my physical health and financial well-being. Some financial challenges I faced as a temporary worker were that I was paid at a lower rate than a non-temp worker doing the same work—also, arbitrary fees charged by the temp agency, and lack of access to termination or severance pay. These three issues have affected my quality of life and my ability to be self-sufficient. These three issues combined have caused my quality of life to deteriorate, as opposed to when I was a permanent employee with benefits.

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When I talk about fees, one agency asked me to pay \$250 to update my cover letter and resumé. I refused, and they actually refused me work because I said no to the \$250 that they would make off me. They said, "Go elsewhere."

Another challenge I faced as a temporary worker was a lack of access to permanent employment with benefits. As a condition of employment, the temporary agency would require that I sign a contract stipulating that I would not work for any of their client companies or subsidiaries. As well, the temp agency would have the client company sign a contract saying they would not hire a former client of theirs at their company or any of their subsidiaries. I faced these issues several times and therefore had to depend on the agencies for employment. This unscrupulous practice by the temporary industry has prevented me from obtaining stable employment with benefits, as most of the jobs available are through temporary agencies, many of which use the calculated practice of requiring both client companies and clients to sign contracts which prevent clients from obtaining full-time employment and companies from hiring qualified workers. An example of this is, I was looking for permanent work and had three phone calls in one week: one from a bank, one from an insurance company, and one from a market research company. They all said that they were required to sign a contract by the temp agency that if they

hired me—I don't want to give the name, but they said, "Well, your name is on this list. You work for this agency, and we do business with this agency, so we cannot hire you." This is very unfair. I was looking for permanent work. Considering that eight out of 10 jobs advertised are through temporary agencies, you don't know where you're going to be able to work or not work.

The financial aspects of fees, a lower rate of pay for temporary workers than permanent workers, and lack of access to termination or severance pay by the temporary industry overall have to stop, as they are creating more social costs and problems for the provincial government, in the form of higher social assistance costs and health care costs, while the temporary industry is making billions of dollars at the cost of the provincial government and taxpayers of Ontario.

The practice of preventing clients from applying directly to client companies or preventing client companies from hiring clients of agencies has to stop. It has a very negative impact and a profound effect on Ontario's economy overall, as it keeps people in a perpetual cycle of dependency and poverty. This is forced slavery in the 21st century and has to stop if Ontario is to have a viable, healthy economy to compete in the global marketplace, survive this recession and be the economic engine of Canada it once was.

The Chair (Mr. Bas Balkissoon): We have time for questions. Mr. Bailey.

Mr. Robert Bailey: Thank you for your presentation today. Would you suggest that staffing firms that offer these services—if this bill was implemented as it's written—offer those services for free? How would they be reimbursed for the training and the work that they do in preparing people for the workplace?

Mr. Kelly Tom: Actually, there are several non-profit organizations that help people write resumés and cover letters. So that's redundant. That should be taken away. That's just another added cost that's unnecessary. You have, like I said, non-profit agencies doing this. Why would the temp industry try to make money on something that's already being offered for free by the non-profit industry?

Mr. Robert Bailey: Another question: Are you familiar with the CCACs?

Mr. Kelly Tom: Yes.

Mr. Robert Bailey: Do you ever wonder why the government exempted them? In your opinion, should they be exempted or should they also be included?

Mr. Kelly Tom: Sorry. What does that stand for again?

Mr. Robert Bailey: Community care access centres. They provide health care in the homes. I just wondered if you had an opinion on why they were exempted from the bill. If you don't, that's fine.

Mr. Kelly Tom: I've read about it in the papers. I don't think they should be—they should be included in the bill, because you have all these people coming over from different countries and looking for work. It's stressful enough. They're coming to a different country; it's a

culture shock. And then to have all these fees charged to them to get a job—did you have to pay a fee to get your job? No, I don't think so. So why should these people have to pay a fee to get their jobs? They were trained in their countries to be a nanny or what have you. This is totally arbitrary and unfair, and this should be included. Nobody should have to pay a fee for a job, to work.

The Chair (Mr. Bas Balkissoon): Thank you. Ms. DiNovo?

Ms. Cheri DiNovo: I totally agree with you, Mr. Tom. Also, just for your information, if the agency did not introduce you to the client company, the client company is absolutely incorrect in saying that they can't hire you on and that they'd have to pay a fee to the agency, even under the situation we find today in Ontario, just so you know. I'm sorry that you went through that. I think a lot of the misinformation that goes out is what we're hoping to correct both in this bill and the amendments to it.

The other question I had for you, and I think you kind of answered it, is around nannies. There's been a lot of talk about nannies in the news lately, the fact that this bill could, but doesn't, include agencies that deal with overseas workers in homes, and really should. That's where a lot of the abuses happen in terms of the charging of fees etc.

Would you be in favour of extending this bill to include foreign-trained workers, nannies, as well?

Mr. Kelly Tom: Oh, definitely. It's a human rights violation as well, what they're doing. This has to be brought in, because it's going to put a black eye on Ontario in regard to human rights. If this is allowed to continue, we're not going to be a place to do business. With our economy the way it is, we need all the help we can get. We don't need these agencies to be putting a black eye on us as someplace that's going to abuse its workers once they get here. They have enough challenges being a new citizen, the culture shock. So I totally support this.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: In Bill 139, the barriers to permanent employment will be removed; that's one of the purposes of the bill. How do you think that will help temp workers in their pursuit of getting full-time employment?

Mr. Kelly Tom: It will allow them to be more self-sufficient, with benefits. As it stands now, when you're a temp, if you apply for a job, you're more or less at the mercy of the temp industry and you're in a cycle of poverty and dependency on these agencies, which is putting a huge strain on the provincial government in social costs, i.e. health care and social assistance. Why should the provincial government pay those costs? The temp industry makes billions of dollars a year because they don't want to take away this clause. Everybody should play by the same rules.

Mr. Vic Dhillon: How much were you paid on a typical assignment, and what type of assignment would that be?

Mr. Kelly Tom: I worked in banks, insurance companies, call centres. I was paid anywhere from \$9 to \$12 an hour. This is below the industry standard in regard to pay, which would be anywhere from \$15 to \$16 an hour. I was paid at a lower rate.

On top of that as well, it's putting a huge financial strain on temporary workers.

The Chair (Mr. Bas Balkissoon): Thank you very much for being here and for taking the time.

Mr. Kelly Tom: Thank you.

THE STAFFING CONNECTION

The Chair (Mr. Bas Balkissoon): The next presenter is The Staffing Connection. Please state your name for the record, and you have 10 minutes.

Ms. Rebecca Artymko: Thank you. Good afternoon. My name is Rebecca Artymko. I'm here representing The Staffing Connection, which has locations in Peterborough, Cobourg, and Barrie, Ontario. Mr. Daynes, who was scheduled to speak before you today, was hospitalized, unfortunately.

Mr. Vic Dhillon: Sorry. How many locations did you say?

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Ms. Rebecca Artymko: Three.

Mr. Vic Dhillon: Three. Okay.

Ms. Rebecca Artymko: Yes. Unfortunately, Steve Daynes, who was originally on your sheet, was hospitalized and not able to make it. That's why I'm here before you now.

An area that the Staffing Connection focuses on is in the area of developing skills in the mindset of people who are, specifically, on Ontario Works and the Ontario disability support program, ODSP. In this regard, we're able to give these individuals various work experiences while on different short-term assignments. Some of the benefits of this are, as you're aware, that some individuals have personal issues or life challenges they're currently working on, but that are preventing them from being able to work at a permanent job. Where these individuals may need coaching, we're able to provide them with this assistance while accommodating their needs to build their long-term goal of sustainable, full-time employment so that they become a contributing, productive member of the community.

The Staffing Connection is a very community-minded company with emphasis on adding value to our employees and our clients. In 2008, we donated over \$50,000 to the Peterborough area. Our community mission is to build into the lives of those communities that we serve: the employees, the clients and just the community at large. Aspects of this bill will restrict our ability to accomplish these things.

I understand the intent of the government, but losses of employment and job opportunities, particularly for persons on Ontario Works and ODSP, will be one of the results of the government's actions if amendments are not made, along with the strong possibility of many

reputable agencies, including the Staffing Connection, going out of business.

The staffing services industry in Ontario has recently incurred some significant financial hardship as a result of general decline in the economy, combined with the adoption of the new statutory holiday, Family Day, in 2008, and the recent removal of "elect to work" provisions in the regulations. Nevertheless, the Staffing Connection, as a member of ACSESS, supports the initiatives to create a fair and balanced environment for all employees and employers in all industries in Ontario.

The Staffing Connection is supportive of Bill 139 in its objectives. Major concerns are limited to three areas: the continuance of employment while not working; termination of severance rights; and regulating business terms and client fees within service agreements. I will be speaking of two.

The continuance of employment while not working is the first one. The Staffing Connection is very concerned with subsection 74.4(2), because it creates an implied continuance of employment while not on assignment, which, in turn, constructs an inconsistency between the employer's obligation and the reality of the employment context. This is inconsistent with not only other jurisdictions within Canada but within North America. The legislation fails to appreciate the nature of temporary employment and the staffing services industry. It creates a different and higher standard for staffing company employers, and creates a higher cost burden and liabilities for temporary staffing companies compared to all other agencies in every other industry. The Staffing Connection is very concerned that this proposed amendment will result in a significant reduction in the number of short-term employees being hired and will result in higher unemployment in the province of Ontario.

This provision will cause the greatest harm to thousands of employees who choose temporary employment and benefit significantly from the flexibility and the training provided. Many times our employees utilize our services as a means to fill their employment gaps between seeking permanent positions. In many cases, our employees are hired on by our clients after a specific period of time working on our payroll. Some of these employees may never have had the opportunity at full-time permanent employment, except for the fact that we, as a staffing agency, were able to give them that opportunity to show our clients, and in some cases coach them through developing their work ethic and their skill set.

The employees who face various personal barriers or life challenges will have less of an opportunity to become integrated back into the workforce.

In the interest of time, our recommendations for amendments are very much in line with those that you've already been provided with through our association, ACSESS.

The second point that I'll be talking about is regulating business terms and client fees within service agreements. Paragraph 74.8(1)8 and subsection 74.8(2) limit a temporary help agency from charging a fee to a client in

connection with the services provided. The client is always the company or the organization and is never the worker or the candidate. Controlling financial business terms between staffing services and clients represents a misapplication of employment standards legislation in the area of consumer and commercial transactions.

The Employment Standards Act governs the relationship between employees and employers in Ontario, and the act should not be misused to interfere with established contractual business agreements between staffing firms and their clients. Temporary help services incur significant advertising, recruitment, background screening, risk and other overhead costs and should be permitted to offer their services to clients without government's arbitrary interventions, limitations and restrictions upon legitimate business terms.

This provision fails to provide any meaningful benefit to low-wage workers. It will significantly damage the largest percentage of the industry providing important services in areas of information technology, accounting, engineering, manufacturing, medical services and other professional services.

These amendments will cause significant hardship and irreparable harm to the Staffing Connection and, by extension, its clients and its candidates. The client loses the opportunity to evaluate the progress of a potential employee who may never have had the opportunity to be employed at that employer because of various issues with the employee's history. We've had many cases where a client has had the same employee's resumé but they would not interview them because of past history, but because they were placed on an assignment at that client through The Staffing Connection, they were retained by the client in a full-time permanent capacity after the specified contractual period of time.

We provide opportunities, not barriers to employment. The recommendations are definitely in line with the association ACSESS for regulating business terms and client fees within service agreements.

In conclusion, through Bill 139, the Ontario government specifically recognizes the importance of the staffing industry and the significance of the industry to job seekers, employees, employers and industry. Bill 139 will establish a new part in the Employment Standards Act defining the relationships between parties and special rules for the staffing service industry. The objective is to ensure that Ontario's employment legislation recognizes the needs of temporary employees and staffing firms that employ them in a fair, balanced way.

In these uncertain economic times, many of our clients will utilize the services of the Staffing Connection to meet the demands of peak orders. If they did not utilize our services, they still would not hire on their own because they don't know what tomorrow holds for them. In this scenario, no one benefits. Even if it was a temporary assignment, the low-income person will get no hours and therefore no money.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here with us.

Ms. Rebecca Artymko: Thank you.

The Chair (Mr. Bas Balkissoon): The next presenter is Nadira Gopalani.

Interjection.

The Chair (Mr. Bas Balkissoon): Did I miss one? My apologies; I've missed one. We'll get back to you next.

1410

LABOUR READY

The Chair (Mr. Bas Balkissoon): Labour Ready.

Can I get you to state your name for the record? You have 10 minutes.

Mr. Kevin Suter: Thank you, Mr. Chairman and members of the committee, for the opportunity to speak regarding Bill 139. My name is Kevin Suter; I'm the regional safety manager for Labour Ready, a temporary staffing company that specializes in blue-collar casual labour. With me in the gallery is Mark Tower, the area vice-president for Labour Ready.

Last year in Canada, Labour Ready put more than 24,000 people to work, more than half of those in Ontario. We served more than 6,000 companies, many of them small and family-owned businesses.

We support much of this bill, but I am here today because I think the authors misunderstand the staffing industry and don't know how this legislation will hurt the very people they intended to help. In particular, we are concerned with these provisions: It overrides the "elect to work" standards and does not recognize active versus inactive employment; it requires termination notice and severance for temporary and casual employees; and it requires written job descriptions before assignment.

When most people think of casual labour, they think of the cash corner, the illegal practice of hiring people off the street and paying them unfair wages under the table. Companies like Labour Ready are the legal and ethical answer to the cash corner.

Labour Ready is an on-demand labour provider. We fill job orders as we receive them. If one of our customers gets an urgent order, they can call us to fill 20 positions that morning. Businesses use our services when someone is absent, to meet seasonal demands, to fill high turnover positions, to complete special projects or to hire people through working interviews.

People work at Labour Ready when they're in between jobs, to learn new skills, or to make ends meet with a second job. On average, a temporary worker works for us for only 20 days—and that may be intermittently. Many use temporary work as a bridge to full-time employment. Labour Ready has never charged a placement fee or required a certain length of service before a customer can hire one of our employees. We also employ a lot of individuals whom traditional employers call unemployable. Some are homeless or incapable of holding a regular 9-to-5 job due to physical, mental or personal challenges.

The changes to the "elect to work" section would impose a standard upon the staffing industry that no other

industry is required to meet. Labour Ready truly is an “elect to work” employer.

When this bill was introduced, the Minister of Labour said, “A few decades ago, temporary help agencies provided workers for short-term clerical jobs.” We still do that, but for blue-collar jobs. Most of our jobs only last a day or two. Our employees choose whether to work on a daily basis. We do not penalize employees who work sporadically. At the end of each assignment, we assume that an employee has terminated his or her employment relationship with us, and many of our employees work at several agencies at one time. We have no way of knowing they’re available to work unless they sign in at the branch. This bill deems temporary employees to be current employees even if they do not make their availability known or choose not to work.

Say a Tim Hortons employee was able to work but decided not to show up to work for three months. If Tim Hortons gave them their job back, nobody in their right mind would say that that person was an employee of the company during the three months they did not work, and yet that is what this bill would mean for temporary staffing agencies.

Section 74.11 requires notice of termination if an assignment employee has not worked for 35 consecutive weeks. It is impractical to expect us to issue a notice of termination, particularly if we have no way of knowing whether someone is willing to work for us on any given day. Requiring us to give termination notices and severance will add an administrative burden that would be impossible to meet. We have no way of tracking the availability of thousands of employees who do not contact us. Likewise, it is impractical to expect us to pay severance and give a temporary employee 21 weeks of pay when they only worked 20, and to do so 35 weeks after they last chose to work. The cost would be passed on to our customers, and that will cost jobs. We recommend that you delete clause 74.4(2)(b). Staffing firms should not be held to a standard that no other company in all of Canada would be expected to meet.

Providing written job descriptions before an assignment will unnecessarily add to dispatch time, increase costs and ultimately cost jobs. We tell employees in writing what a job pays before they accept it, and they know we pay daily for short-term assignments and weekly for longer assignments. We print the client’s contact information on the work ticket that we give employees upon assignment. We give verbal job descriptions and direct our employees to call us if they’re asked to do something else. However, providing written job descriptions before assignment is impractical for on-demand agencies. When customers call with a job order, they may need temporary employees within 30 minutes. Customers give a verbal job description, which we share with the employees, but writing the description on a dispatch form takes more time than most people would think. If we had to give each of 20 workers written notification of 20 different jobs, we’d need at least one and a half more hours to assign the workers. Considering that on a summer day we may dispatch more than 70 people, we would

have to hire additional staff to complete the written job descriptions, and that additional cost would have to be passed on to our customers, again costing jobs.

Labour Ready recommends that job descriptions be shared verbally upon assignment and be made available in writing to employees upon request and in a reasonable amount of time.

Although Labour Ready does not charge a fee when a customer permanently hires one of our employees, we understand the practice and do support ACSESS’s position on this point.

Again, thank you for your time. We support many of the initiatives in this bill, and we do believe it’s well-intended. However, the requirements I discussed will cost jobs. We have submitted a brief to provide more information, and I welcome the opportunity to answer any questions you might have.

The Chair (Mr. Bas Balkissoon): Thank you. We will start the questions with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you for your deputation. Do you issue records of employment for your employees?

Mr. Kevin Suter: We issue records of employment electronically, right directly to Revenue Canada, after seven days of absence.

Ms. Cheri DiNovo: And to the employees too, for EI?

Mr. Kevin Suter: Revenue Canada, as of March 26, has said that employers do not have that obligation if they do submit them electronically. Any of our employees can go to the local HRDC office and get a copy of their record of employment.

Ms. Cheri DiNovo: In the European Union—this is true of European Union countries—they’ve brought in a mandate for equal pay for equal work. We’ve heard some deputants who talked about that. Would you support equal pay for equal work? In other words, if one of your temporary employees is doing exactly the same job as a permanent employee, exactly the same job, should they be paid the same wages?

Mr. Kevin Suter: That’s a very difficult question to answer because we have such a wide variety of jobs and a wide variety of experiences. A lot of our workers, because it is very short-term, are new workers to almost every job they go to. I would say that in many cases our employees are already being paid what a new worker would have been paid by one of our clients. I’m not saying that’s in all the cases. I think it would be very difficult for me to answer at this point.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much. Does your firm charge a temporary-to-permanent fee?

Mr. Kevin Suter: No, sir.

Mr. Vic Dhillon: What’s your practice on recruiting? How do you recruit employees?

Mr. Kevin Suter: Oh, jeez, a variety of ways. We certainly contact social service agencies. In some communities we’re in, we deal with Ontario Works. We do advertise. We are storefront agencies. We’re not in upstairs offices, so we have signage right on the street when people walk by. It’s a variety of ways.

Mr. Vic Dhillon: What type of assignments are given?

Mr. Kevin Suter: The type of jobs, you mean?

Mr. Vic Dhillon: Jobs, yes.

Mr. Kevin Suter: It's such a wide variety with us. We do everything from hospitality to construction to factory to warehouse to unloading trucks at stores. There's such a wide variety. If our clients request a skill, we'll look for it, and if we can find it, we service them.

Mr. Vic Dhillon: Would you be able to give an example of the amount of mark-up you charge?

Mr. Kevin Suter: Every client is completely different, so I couldn't give that amount. I can tell you—

Mr. Vic Dhillon: The numbers might be different but the percentage—

Mr. Kevin Suter: Again, the percentage is different from client to client. What I can tell you is that, after all of our costs are factored in, we typically work on a 2% to 3% profit.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Thank you, Mr. Chair, and thank you for coming in today, Mr. Suter. The way you described it, especially, your firm is probably a little more unique. It's just-in-time staffing instead of just-in-time delivery. Would a lot of the staffing people, the resources, be new Canadians and—I noticed you mentioned Ontario Works—people who maybe wouldn't have an opportunity to take part in the labour force if they didn't have an opportunity to work through your firm?

Mr. Kevin Suter: Depending on the community we're in, we have a large number of new Canadians, yes. I wouldn't say that they're the greatest percentage of our employees but, for example, our downtown Toronto office would have a larger percentage than our Peterborough office. But yes, we do have a fair number.

Mr. Robert Bailey: Do I have time for one more? Is that it?

The Chair (Mr. Bas Balkissoon): One quick one.

Mr. Robert Bailey: What would be the impact, if the bill is implemented as written, on your firm?

Mr. Kevin Suter: Similar to what some of the preceding agencies have talked about, certainly it would increase our costs, which I think would certainly decrease our customer base, which would decrease the number of jobs we could offer. I think that our clients would be more leery of dealing with agencies, but I don't think that they would necessarily be hiring people temporarily themselves. I don't think it would create more jobs. I think that many of the factors in there would cause us, as some of the other agencies have said, to be looking at more long-term placements.

The Chair (Mr. Bas Balkissoon): Thank you very much, and thank you for taking the time to be here.

1420

NADIRA GOPALANI

The Chair (Mr. Bas Balkissoon): Now I will go to Nadira Gopalani, and my apologies for having you stand

up before. You have 10 minutes. Please state your name for the record.

Ms. Nadira Gopalani: Good afternoon, everyone on the committee. My name is Nadira Gopalani. I would like to thank the committee for giving me the time to be here today to talk about why it is important to make sure that Bill 139 is strong enough to address the issues faced by the disposable workforce: workers who are facing the consequences of temp businesses being allowed to collect as much as they can from workers without being regulated or facing any consequences.

The lessons that we are learning from the current economic crisis are that businesses need effective regulation for a sound economy to exist.

My daughter is currently looking for a job in companies that we are hearing about this afternoon. Let me tell you a bit about what is actually happening on the ground.

When we came to Canada, one of my kids, who is a trained IT professional, tried to get work in her profession. When there seemed to be no breakthroughs available, the logical step was to go the route which was the norm in Toronto, and that was, to be able to get a position in one of the IT firms, to register with a temp agency, get a contract and work for it. She did just that. She got a job at an IT company.

Now, that IT company is a world-famous, well-known one. It has a very well defined, tiered workforce who are known as regulars, supplemental, and temps and contractors. The temp tier is the disposable workforce, usually hired through high-ranking temp agencies.

The temp agency in question defines itself—let me quote from their website. It's "a world leader in the employment services industry, creating and delivering services that enable its clients to win in the changing world of work." This agency did a great job. It did deliver a world-class worker to the IT company.

My family member worked for over two years for this IT company through the agency, earning less than 50% of what her co-workers did, with no benefits, working harder than the co-workers just to be able to hold on to that job, with the hope of being hired as a regular worker.

At the beginning of the assignment, my kid's job duties were to deal with 15 businesses across Canada. But after some time, things changed. When she started working, her work ethic and hard work were recognized, and the quality was appreciated, so a lot of new responsibilities were added. From 15 businesses, she was asked to deal with 250 businesses across Canada. What did that mean to her as a worker? From 80 to 90 calls in a week, it went to 90 calls a day and 350 e-mails to be answered every single day. This company where she was working has a reputation for answering each and every call and e-mail within a turnaround time of two hours.

All the temps working there worked faster and harder than all regular co-workers, just at the thought of being hired permanently by that company. But my kid learned the hard way a very big lesson: It takes much more than that to be hired permanently.

This afternoon, I'm hearing a lot of questions being put to agencies that are sending workers on temp assignments, and we are hearing very twisted and very vague answers that companies are finding it very hard to just pin down one single client agency that they are working with to be able to give an answer about the markups they're giving.

Let me explain what was happening. The regulars who were working in the company were paid \$25 hourly, with benefits. The supplemental staff was paid \$16 an hour, and temps were paid \$13 an hour. So when the duties changed, the thing that happened is very strange. At no time in the whole time after the duties changed was there any difference of a single penny in the wages that were being paid to my kid.

There were at least three managers who met with her on separate occasions and discussed the possibility of being hired as a permanent person, but as soon as they realized that it was a temp worker, their immediate advice would be, "You're an excellent person, an asset to our company, but our advice would be to go out of the company for one year, and only then will it be possible for us to hire you back as a permanent employee of this company."

So, just coming to the second year of employment, there came a situation, and like it happens a lot of times, there were some errors on my kid's paycheque. There were some wages owed, backlogged. The manager had to be called upon to make another copy of the hours worked, and as they were going through the process, he questioned her and asked, "So what is the agency paying you now?" When he heard that she was being paid \$13 an hour, his eyebrows just shot through the sky. It was very obvious that there was a different set of wages being paid to the permanent workers and there was a huge markup on what was being paid to the temp workers.

Besides my family member, there were 13 other temps who worked in that agency, and when things came to the position where a lot of work needed to be done, the pressure was all on the temp workers.

Around that time, this well-known company sold a part of its business to another business in China. What that meant was that a lot of jobs in the company needed to be restructured. So the regular employees, each and every person, were met by the manager and had an interview. They had a session where they went through what it meant to them. Everyone had a discussion. The managers had a discussion with the employees to soften the blow and also to discuss further strategies—how they could connect themselves, how they could position themselves better in the future in their working life. But the temp workers were all huddled together and had a five-minute meeting where they were just told, "We are going to sell the business and that's it. There's nothing else." The perma temps, who were working for more than two years, were never considered important enough to discuss their future with the company.

Now, coming to the differential treatment that was put out to my child, being a temporary agency worker rather

than a regular worker had a huge impact on us as a family. Let's do the math. What happened? Let's do the math, because that does constitute—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Nadira Gopalani: —an important part. So, \$28,000 for every year worked: That meant my daughter received \$62,000 less for two and a half years that she worked in that company, with no public pay—that means 20 days of public holiday pay—and no benefits, while regular workers collected benefits and accrued pensions also. There was no—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move to the next presenter. Thank you very much for taking the time to be here with us.

1430

CANADIAN AUTO WORKERS

The Chair (Mr. Bas Balkissoon): The next presenter is the Canadian Auto Workers.

Mr. Ken Lewenza: It might be the most relaxing five minutes I've had this year.

The Chair (Mr. Bas Balkissoon): I'd ask you to state your name for the record. You have 10 minutes. If there's any time left after your presentation, I will allow questions of all three parties.

Mr. Ken Lewenza: Thank you very much. Let me thank the committee for taking the time on this very, very important bill. To my left is Laurell Ritchie. She is a CAW staff representative who works with workers who lose their jobs. To my right is Cammie Peirce, who works in the adjustment centre, representing CAW members who have lost their jobs. I'm Ken Lewenza, president of the Canadian Auto Workers union.

Again, we gave each of you a brief. Obviously, the brief is much longer than 10 minutes, so I'm just going to kind of skip through the important sections of the brief if you don't mind, for the purpose of time, to try to ensure that you have some questions and the opportunity.

On the introductory page: Obviously, employment standards are important to all workers, those covered by collective agreements as well as those most vulnerable to labour market forces. Every day we see fresh evidence that all workers are vulnerable at least some of the time.

At the bottom: A good first step—holiday pay extended to temporary agency workers. Effective January 2, 2009, the provincial government enacted regulation 432/08, which extends public holiday pay to those not previously eligible as "elect to work" employees. This greatly benefits temporary help agency, casual, on-call, and contract workers.

Many more steps are needed for a greater measure of fairness and equality for temporary help agencies. The CAW welcomes this. At the same time, we strongly urge the government to make improvements that would ensure that the bill is more effective in achieving the overall stated goal.

Like many other workers, laid-off CAW members find themselves confronted by a disturbing new reality, one

they were not prepared for and one that many Ontarians are not yet aware of. Many of these laid-off members simply cannot find a new job now except by applying to temporary agencies.

Our action centres' report—and we have multiple action centres: Action centres for laid-off CAW members are reporting as follows:

(1) Between 70% and 90% of the advertised job postings are now through temporary help agencies.

(2) Workers see jobs that they used to do for \$20 an hour now advertised at \$15 an hour, with the difference presumably going to the temp agencies.

(3) Workers can't apply directly to firms with job openings; they are directed instead to apply to temp agencies.

(4) There's no end in sight to the worker's association with the agency because of the barriers erected by temporary agencies to permanent employment.

(5) Once locked into this relationship with temporary agencies, some workers report that they are not able to accumulate the required hours to qualify for a future EI benefit.

The emergence of a new labour market that offers increasingly unstable employment and that encourages jobs that are low-wage, with few health benefits, is a problem not only for the workers involved and their families, but the province as a whole.

Those working for employment agencies earn 40% less than their permanent counterparts. The gaps persist even when hours of work are taken into account—and again, that's right from Statistics Canada.

There is a common perception that the only problem with temp agencies is that a few "bad apples" have spoiled it for the rest—the disreputable fly-by-night operations that take a worker's money one day, close up, and reopen under a new name. But there is another, bigger problem. As reported to the CAW 2008 collective bargaining and political action convention, "Employers are developing a disturbing 'relationship of convenience' with the temp job agencies that have popped up everywhere. These are not the temp agencies of old. It's not about casual labour for limited time projects. It's about converting stable employment into agency work.

"And it's big business. Manpower Inc. ... is now ranked among Fortune 500's....

"Hiring through private temp agencies happens in many sectors across the economy. It is even transforming the auto industry. This is especially true of lower-tier auto parts firms. Researchers estimate 10% to 20% of auto parts workers are now classed as 'temporary.'"

A peer helper at a CAW worker action centre in Oshawa writes:

"First of all, various agencies, and employers make it near impossible to become privately employed within companies with which they have contracted....

"Agencies will commonly secure a contract with a (client) company, locking out all outside hiring capabilities, ensuring contingency fees, and effectively forcing employees to work for deflated wages while charging a company a contracted or full rate."

Temp agencies are not creating jobs. They are not a new pathway to employment. Rather, they are developing relationships with employers on a for-profit basis and then acting as the gatekeepers. This has very serious implications for the next generation of jobs—jobs offered by Honda.

Bill 139 would still allow agencies to apply restrictions on companies hiring workers directly during the first six months of an assignment. A six-month exemption—a very large loophole—will undermine the stated objectives of Bill 139. A six-month loophole could have the unintended consequence of a revolving door of six-month assignments—and I think the sister prior to my presentation identified that fairly clearly.

In conclusion, the CAW has chosen to focus on the three issues which speak most directly to our members' lived experiences: the barriers that stop temporary workers from getting permanent employment; the need for equal treatment on severance and termination pay; the need for joint and several liability protection.

We commend the government for taking the initiative on holiday pay for temp agency workers, for committing to stronger enforcement, and for tabling Bill 139.

We also strongly urge the government to remedy the serious flaws in Bill 139 which will undermine, if not defeat, its worthy objectives.

Again, you've got the full address in front of you. Obviously, it's more detailed than my explanation here today, in the interests of time. I hope that you will take the time to consider our brief and enact the ideas and suggestions within the legislation.

Once again, I thank the government and the opposition parties for their work and for introducing Bill 139 to the Legislature.

The Chair (Mr. Bas Balkissoon): We have one minute for each member. I believe it's the government's turn. Mr. Dhillon.

Mr. Vic Dhillon: Thank you for taking the time to appear before the committee.

Do you feel that temp agencies are taking away full-time work in general, all over the province?

Mr. Ken Lewenza: There's absolutely no question about it. Employers are looking at temp agencies as a supplementary workforce that is actually now encroaching into full-time jobs for the purpose of cost-saving, yes.

The Chair (Mr. Bas Balkissoon): Mr. Bailey.

Mr. Robert Bailey: It's good to see you, Ken.

What percentage of your laid-off members would you think are being placed now, re-placed, in employment with temporary agencies?

Mr. Ken Lewenza: Some 80% to 90% of them have to go through a temp agency to get a job. Cammie Peirce deals with this first-hand. Are those numbers accurate?

Ms. Cammie Peirce: That's probably very close to accurate. In spite of the fact that we try very hard not to be going through a temp agency, even if you go onto the Service Canada website, you will find that it is absolutely flooded with agencies. That's the way people are getting their work.

Mr. Robert Bailey: They'd still be union members, and if there was a recall they would be able to be replaced, if the jobs come back again, even though they've left with a temporary agency? That doesn't jeopardize their membership?

Mr. Ken Lewenza: That's a collective bargaining issue. There are some bargaining workplaces, actually, where temp workers are excluded from the bargaining agreement. Again, it depends on the strength and power of the union to be able to change. Obviously, I would like to believe that every worker who walks into a unionized work environment gets the benefits of a unionized worker, but it depends on your ability to bargain with the employer and to strengthen your ability to do that.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo.

Ms. Cheri DiNovo: Certainly, in the European Union, equal pay for equal work is the law of the land, and that's what we're after in the New Democratic Party, across the board.

The six-month barrier to employment—I think the six-month charge is actually open to a charter challenge, so it's something you might want to look at in the CAW, because it is a barrier to employment.

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My one question is about home care workers and nannies. Mr. Lewenza, would you be in favour of extending the coverage of this bill to include those who are most exploited—foreign-trained workers?

Mr. Ken Lewenza: Absolutely. In fact, the media attention on that particular abuse has been significant and I hope all Ontarians have been following the media reports on that exploitation.

The Chair (Mr. Bas Balkissoon): Thank you very much and thank you for taking the time to be with us.

Ms. Laurell Ritchie: Sorry, I have just one other item. We have a lot of action centres with the CAW, and so do a lot of other unions and organizations right now, given the extent of job loss. Yesterday, there was a big forum for action centres, union and non-union, in London—

The Chair (Mr. Bas Balkissoon): I have to actually be very quick because I have a full list of deputants.

Ms. Laurell Ritchie: I'll leave this document with you from that group.

The Chair (Mr. Bas Balkissoon): Okay, thank you.

Mr. Ken Lewenza: I'm going to walk around until the next presentation starts to thank you guys.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thank you for coming in.

STEVENS RESOURCE GROUP INC.

The Chair (Mr. Bas Balkissoon): The next presenter is Stevens Resource Group, if you could come forward. Can you please state your name for the record? You have 10 minutes.

Ms. Sherri Stevens: Good afternoon. I would like to thank you for giving me the opportunity to speak to you today.

My name is Sherri Stevens and I am the president and owner of Stevens Resource Group. We have eight locations in southwestern Ontario, mostly in the smaller, rural communities. Next year, we'll be celebrating 20 years in business.

Our story began in 1990. After working for eight years as a flight attendant, I decided to change careers. During this transition, I turned to a staffing firm that placed me in temporary administrative positions with government agencies. This gave me time to think about my future while still being able to take care of life's necessities. Working with a staffing firm made it so much easier and gave me the opportunity to build my skills while gaining confidence in myself and my abilities. I was introduced to jobs that I know I would never have been able to secure on my own. I also learned from my experience that I still wanted a career involved in helping people. I decided to return to my hometown. This was at the beginning of the 1990 recession and jobs were difficult to find.

Having had such a positive experience, I opened my own staffing company. I secured a \$1,000 line of credit and worked at night in a printing shop so I could pay my employees. As the recession waned, businesses started calling for flexible employees to support their sporadic growth. Many of our first team members were stay-at-home moms who were looking to re-enter the workforce.

I recall my very first team member. Her name was Jeanne Turner and she had just graduated from a job re-entry program. Jeanne was very quiet-spoken, introverted and would blush when spoken to, but she had a kind heart and determination. At a chamber board meeting, I was approached by the general manager, who required a part-time receptionist. At this point, Jeanne only wanted part-time work, as her children were still in school. This position was perfect for her. Eventually, the role turned into a full-time position with the chamber.

As consumer confidence grew, so did the demand for our services. In 1992, we were approached by a local automotive company to provide 20 production associates for their just-in-time production line. I remember one team member in particular, Amer Cengic. Amer, his wife and three-year-old daughter came to Canada from Bosnia looking for a better life. Amer came into our office looking for work as a production associate in July 1992. Even though Amer had a B.A. in business and a master's in marketing from Bosnia, he was desperate for a job and would do anything to support his young family.

In September 1992, we placed him with our new client, who was so happy with Amer's performance that in January they offered him a full-time position. After only four months of employment, Amer was invited by the company president to visit their head office in Japan. Seventeen years later, Amer is still employed with this client and is now their general manager. I am so proud to have witnessed his career progression. Amer is not only a client, but a trusted colleague. Today, this client has almost 560 employees; 510 found full-time employment through our company.

This is only one example of many where we were able to place a substantial amount of people into full-time positions. This clearly demonstrates how the staffing industry removes barriers and builds bridges to opportunity in living the Canadian dream. Also, as our client base grew, so did the need to add more internal, full-time staff members.

Another story that comes to mind is Nelson Martinez. Nelson was a new Canadian who emigrated from the Philippines. He had eight children and he couldn't afford to bring them all to Canada; he had to leave one behind. He was in Canada for one year. He was working for other employers—not temporary staffing agencies, but other employers—at minimum wage, and still could not afford to bring his child to Canada. He came to us and we were able to place him in a full-time position for substantially more than minimum wage. As a result, they were able to bring their four-year-old-daughter to Canada. His wife had tears in her eyes while thanking us for getting her husband such a great job. Nelson kept saying, "Because of you and Stevens—thank you."

As you can see from the preceding real-life stories, many benefits are realized by our team members. Jeanne was able to gain valuable skills and self-confidence while at the same time allowing flexibility in her schedule for her family, Amer gained experience that was instrumental in advancing his career, and Nelson was able to reunite his family and provide a good life for them.

Our guiding principle at Stevens is to focus on promoting a culture of initiative, integrity, creativity and trust. This is posted in our head office and at all our branches. We believe that productive relationships are the result of mutual respect and commitment. Our people are our strength; their success is our success. This is why we thoroughly prepare all team members prior to their work assignments.

Initially, we spend two and a half hours with each team member and our ISO certification standardizes our process to ensure consistency in that delivery. We conduct a detailed client workplace inspection and we have declined business if we believed the worksite to be unsafe for our team members. In addition to our employee handbook that outlines our policies and procedures, all team members are given specific instructions regarding their assignment prior to placement.

In your packages are invitations. I would personally like to invite you to visit any of our branch locations to meet our team members and review our business practices.

I agree with the intent of Bill 139. However, to make this a fair and balanced bill, our recommendation is to remove only two clauses.

(1) Recommendations for continuance of employment while not working: Do not codify a continuance of employment, and recognize/respect periods of active versus inactive employment. There is no employment when the assignment employee is inactive—not on assignment. Delete clause (b) of subsection 74.4(2). Do not impose a different and more onerous legislative standard on

staffing firm employers. The notion of implied continuance of employment is contrary to well-established principles of employment law and existing provisions contained in regulation 288/01 of the Employment Standards Act.

(2) Recommendation for regulating business terms and client fees within service agreements: Remove 74.8, paragraph 8 of subsection (1), and subsection (2), which interfere with business terms, and refocus attention on employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

Should this bill pass in its entirety, I fear for the continued existence of our industry in Ontario. But most of all, I fear for the people who depend on us to be their human link to better opportunities. Who will be left to support our employees? Will we be looking at increased social assistance or employment insurance? With an \$18-billion deficit over the next two years, can our government support the impact this bill will create?

The businesses that do survive this recession will be left without the flexibility that our industry affords them, potentially having their existing employees work more overtime while ignoring the excess hours legislation, adding more job responsibilities per employee or paying people under the table. Efficiencies will be lost. Costs such as labour, WSIB and health care will increase. Businesses will close completely or relocate to other provinces or countries where the business environment offers more freedom for all.

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I am very passionate about this industry and the benefits and opportunities we provide people. I also feel very fortunate to be an entrepreneur and to own a small to medium enterprise in the province of Ontario, as do, I'm sure, many of my colleagues in the staffing industry, many of whom are also SMEs.

I would like to commend the McGuinty government for saluting small business last October by dedicating the month to entrepreneurs and small firms. To quote Harinder Takhar, Minister of Small Business and Consumer Services, "Small business owners and entrepreneurs are truly exemplary Ontarians. After all, they are key contributors to innovation, investment and job creation in every part of our province. They are the drivers of our economy, and while we pay special tribute to them this month, their efforts are felt year round."

Ninety-nine percent of Ontario firms are SMEs and account for over 360,000 businesses—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Ms. Sherri Stevens: —and over half of the private sector jobs. SMEs contribute more than \$250 billion in economic activity annually. I fear Canada, and in particular Ontario, is in for the fight of its life. We should not let the sins of a few condemn the whole. If SMEs are such a key part of Ontario's economic growth and potential recovery, why are we putting up more barriers for conducting business in Ontario?

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to join us.

HCR PERSONNEL SOLUTIONS INC.

The Chair (Mr. Bas Balkissoon): The next presenter is HCR Personnel Solutions Inc. Please state your name for the record, and you have 10 minutes.

Mr. Peter Raback: Good afternoon. My name is Peter Raback. I'm the president of HCR Personnel Solutions. We're a staffing company in the GTA with four locations. We've been in business for 13 years. Today I would like to pass the floor to one of my customers, Kelly Harbridge from Magna International.

Mr. Kelly Harbridge: Good afternoon, honourable members and members of the committee. My name is Kelly Harbridge. I'm labour and employment counsel from Magna International. Magna is the third-largest automotive parts supplier in the world and one of Ontario's largest private sector employers. We have 53 manufacturing facilities and eight engineering product development centres in Ontario, and we employ approximately 15,000 employees in the province of Ontario.

In terms of the current challenges that the manufacturing sector is facing, Ontario's manufacturing base, and the automotive industry in particular, have been extremely hard-hit by the current economic crisis. Many manufacturers, like Magna, are currently struggling to maintain their existing business footprint in Ontario. In our view, any new legislation that further increases financial or administrative cost of doing business in Ontario is poorly timed and may jeopardize further jobs in the province.

The Ontario Employment Standards Act is already one of the most restrictive and costly pieces of employment legislation in North America. It's not to say that these protections aren't essential to protect Ontario workers. Having said that, they need to be balanced in terms of other jurisdictions in North America with whom we're competing for business and jobs. Undue legislative restrictions would result in Ontario employers being less flexible and competitive than other nearby jurisdictions, including other Canadian provinces, as well as US states, particularly northern states that have a manufacturing base.

Intense global competition from low-cost countries is creating unprecedented challenges for Ontario manufacturers. In order to compete and survive, Ontario employers need greater flexibility. Our current manufacturing volumes, in particular, are increasingly volatile and unpredictable in nature. Like never before, we are seeing wild fluctuations in customer demand that often make long-term manpower planning difficult. In years past, it would not be uncommon for us to have an idea weeks, and sometimes months, in advance of what our customer demands were in terms of schedule and production. Some of the more recent examples: We're being advised as to parts orders only 24 to 48 hours in advance for many of our larger customers. You're seeing

short bursts of manufacturing production. A customer may want parts produced on a particular program for two or three weeks at a time, followed by months of downtime and layoffs. So long-term manpower planning is becoming increasingly difficult.

Over the years, we've partnered with various staffing agencies, including HCR. Those partnerships have been incredibly successful in terms of helping to supplement our regular full-time workforce in order to address many legitimate business issues in terms of unpredictable and unstable customer volumes, which I have addressed, programs and facility launch situations—often when you're opening a new plant or launching a new technology, your business and manpower may be in flux for sometimes weeks and months after launching a new facility—short-term quality control issues, absenteeism and lost time, as well as dealing with excessive overtime costs. This relationship with our staffing agencies has helped Ontario manufacturers and Magna remain competitive by managing short-term and fluctuating manpower needs in an efficient and cost-effective manner.

We've had many success stories over the years in terms of our partnership with the staffing agencies we do business with and we've helped many unskilled and vulnerable individuals access the job market and transition to full-time employment. The average length of a temporary assignment at Magna has generally been in the four- to six-month range and during the past several years over 3,500 Ontarians have started their careers at Magna as temporary workers before moving to full-time, regular employment—approximately 24% of Magna's Ontario workforce. This has been an efficient and cost-effective way for Magna to recruit new employees, allowing many individuals to gain essential skills and experience in the job market while permitting the customer firm company such as Magna to audition candidates for upcoming and future opportunities as they may arise.

There are a couple of success stories in particular. Our Ontegra facility located in Etobicoke, Ontario, originally launched in 2001. At that time, we partnered with Mr. Raback's firm, HCR, to recruit and staff the entire workforce through his temporary agency. There was a rapid launch and recruitment drive and eventually all 500 employees at Ontegra, who started as temporary staff, transitioned to full-time regular employment with that facility.

A similar success story is our Deco Automotive facility in Rexdale, Ontario, with approximately 600 regular full-time employees. Between 2003 and 2007, about 177 temporary staff transitioned to full-time regular jobs at Deco. We're very proud of Deco's workforce. It's a very rich cultural mosaic. There are over 40 different languages and cultures present on that production floor. It really is a miniature United Nations with people from around the world, many new Canadians who've been given their first opportunity for a stable job with good pay and good benefits, many of whom wouldn't have had that opportunity if they hadn't had their foot in the door through Mr. Raback's firm, HCR.

We're very proud of those two plants in particular, and that's just a glimpse of many employment success stories at Magna in terms of individuals who wouldn't have otherwise had access to a full-time career at Magna without coming through a temporary agency first and gaining those essential skills and experience.

In terms of our concerns with Bill 139, Magna generally supports the government's intentions with respect to Bill 139; in particular, those aspects of the bill that promote full disclosure and education for the workers being employed through temporary staffing agencies and the removal of any illegitimate barriers to full-time employment.

However, certain provisions within Bill 139 need to be refined, in our view, so as not to impede a legitimate agency-customer relationship or impose excessive administrative and financial costs that will impact the ability of Ontario manufacturers to compete. In particular, section 74.8, the ban on client fees, in our view, is both unnecessary and counterproductive. In our experience, those client fees are not a barrier to full-time employment. They cover several value-added services that many of these staffing agencies provide to companies like Magna and other manufacturers. In a sense, we've contracted out a lot of our front-line HR and recruiting services to third-party agencies such as Mr. Raback's HCR. They handle our recruitment and interview process, the screening and selection of candidates, pre-placement skill and ability testing, pre-placement medical testing in those situations where it may be required, as well as training—health, safety and otherwise—and orientation services. So many of the front-line services provided as part of the recruiting process by firms like HCR and others are very value-added and cost-effective for manufacturers like Magna, as opposed to having to handle those services in-house.

One of the other concerns with respect to Bill 139 is subsection 74.4(2), the deemed continuity of employment provision. I think that fails to recognize the short-term and often sporadic nature of temporary assignments, very different from the regular employment relationship where there is a contractual understanding between the parties that it's a relationship of indefinite duration. In these situations, they're often short-term and sporadic, often with individuals working for various temporary agencies all at the same time. It becomes very difficult to administratively track the continuity of employment.

In our view, this particular provision will significantly increase cost determination, and that cost is unlikely to be absorbed by the agencies themselves. One would think that those costs will be worked into the overhead—

The Chair (Mr. Bas Balkissoon): You have 30 seconds left.

Mr. Kelly Harbridge: —and eventually downloaded to the client company, making Ontario less competitive with other North American jurisdictions.

To the extent the ESA imposes new costs on the cancellation of short-term temporary assignments, one would think that industry, in many cases, will think twice about

retaining such individuals in the first place, reducing opportunities for vulnerable groups to access the job market. It creates financial disincentive for companies to retain temporary workers for any periods of longer than three months. Prior to three months, under the legislation employees are not eligible for termination pay—

The Chair (Mr. Bas Balkissoon): Thank you very much.

Mr. Kelly Harbridge: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to join us and give us your input.

The committee is now recessed and will reconvene at 4 o'clock.

The committee recessed from 1500 to 1601.

LAURA ST. PIERRE

SIOBHAN ST. PIERRE

The Acting Chair (Mr. Joe Dickson): I call this meeting to order. Our first delegation is Laura St. Pierre and Siobhan St. Pierre. Welcome. Make yourself at home, ladies. You have exactly 10 minutes. I wonder if you'd be good enough to introduce yourself for the Chair, and if there's any time left over from the 10 minutes, we'll proportion that equally amongst the three parties to ask you questions. Please proceed.

Ms. Laura St. Pierre: My name is Laura St. Pierre.

Ms. Siobhan St. Pierre: I'm Siobhan St. Pierre.

Ms. Laura St. Pierre: I'm here today in support of the temporary help agencies, against Bill 139, as a temporary worker. Currently, I'm working at 3M Canada and, quite simply, I wouldn't have this job without the help of a temporary agency. I have used the services of agencies for five-plus years now and have gained a wealth of knowledge and experience that I genuinely believe I would not have had the opportunity to in any other fashion.

I was recommended to a temporary help agency by my mother, an Irish immigrant, who has had first-hand experience with the many benefits these businesses perform. When I finished high school, and all throughout university, I quickly learned the same lesson my mother learned when she immigrated to Canada, which was that experience is one of the keys to finding a full-time job. But I struggled to understand how a person can gain experience when no one will give them a chance, and I believe this is where a temporary help agency has stepped in to help.

After hopelessly searching for a job, my mother applied at a temporary help agency called Quantum, where she was instantly given a chance and ended up with a full-time job at Grafton Fraser, and today lives a very successful life.

Personally, as a temporary worker, all of my experiences have been excellent. I have always been given all required information about my assignment, my location, the rate of pay and the scheduled amount of time my assignment should take. The training and the availability

of the agency staff, as well as the support that I have always been provided, have always been outstanding.

This really showed through during an assignment I was given in an HR department at a company in London, whose offices were located in an old Victorian-style home. The assignment I was given was clerical and filing within the office. When I arrived, I was brought through the house and out the back door to another door. When the woman opened the door, I was led down a set of stone stairs; the walls were also made of stone and were covered in cobwebs and spiderwebs in every corner. At the end of the staircase was a little room that can best be described as a dungeon. It was lit by a single light bulb hanging from the ceiling that you pull a chain to turn on. The ground was covered in a puddle and the filing cabinets were placed on wooden skids. The woman told me what she wanted me to do and went back up the stairs. She then yelled back down to me to make sure I left the door open because there was no light for the stairs, and with the single bulb turned off it was virtually impossible to see anything. I was completely appalled, especially since this was the company's HR department. I contacted the agency and was pulled from the assignment immediately.

The agency then followed up with the client by performing yet another site visit and saw the environment I was working in, which they were never shown initially on their first visit. They then told the client they would not be a part of sending anyone else into that environment. Had I been an employee of that company, would I have had a choice to work down there or not? I'm inclined to believe that the answer to that is no.

In addition to working various assignments, I have also had the opportunity to work within an agency for three years. This provided me with the opportunity to see the other side of the industry. I learned quite a bit during my time, and I will continue to carry the skills forward with me. One thing that I will hold with me is the reality, the compassion and the understanding that was demonstrated toward the huge spectrum of people who walked through those doors, from the man I met who had lost his job of 28 years at Accuride and was his family's sole provider, to the UN worker from the Sudan, to the doctor from the Middle East—all in search of not just a job, but a chance. We live in a country that too frequently neglects the skills obtained in other countries and considers them inferior to ours. These temporary help agencies make such an impact and really help these people get the experience they deserve to be successful.

Ms. Siobhan St. Pierre: My name is Siobhan St. Pierre. I'm also here today in support of the temporary help agencies against Bill 139.

My experience with the agency has always been of a positive nature, with a lot of understanding and support.

Approximately two years ago, I was diagnosed with a medical condition that caused me to resign from a job I held for four years while I was in high school, because my employer failed to understand my situation and provide any support to me. Some days I would wake up

and I'd feel great, while other days I had absolutely no chance of getting out of bed and facing work. What kind of an employer would accept an employee saying, "Today I can work, but tomorrow and the rest of the days, I don't know"?

It was recommended that I register at a temporary agency. From the beginning, I let them know what was going on in my life. That was the beginning of an excellent relationship with the temporary agency. I have never felt that I was being judged. Whenever an assignment became available that suited my qualifications, the recruiters would call and ask if I would consider the assignment. I never once felt pressure that I had to say yes or they wouldn't call me again.

One assignment that I accepted brought me to the University of Western Ontario, where I was doing high-level administrative work. Throughout the day, I began to feel more and more overwhelmed, so I called the agency that afternoon and explained how I was feeling. They completely understood, and without judgment they told me that they would find a replacement for me.

The medical condition I suffer from is clinical depression and anxiety. Unfortunately, in the society that we live in, there's a stigma attached to these illnesses, but I never once felt that from the staff at the agency. During my treatments, I had to attend a daily program for six weeks from 9 to 2 at the hospital. As soon as I completed my program, they sent me out to work again. The point I'm trying to make is that not once did I feel judged during my employment with the agency for something so many others would have judged me for. They were always understanding and supportive.

Today, I am working at the children's aid society. In the future, I wish to work with disturbed and troubled teens, so what better way to network? I would like to add that it was a temporary agency that helped me get this job.

Ms. Laura St. Pierre: In conclusion, Siobhan and I both feel very strongly that this bill will result in hurting the very people it was created to protect. We are in a scary economic time where people are struggling to find work and keep their jobs. The passing of this bill will not only create less options for the current struggling, vulnerable workers, but could potentially add more workers to a seemingly increasing number, because these agencies will no longer be able to afford to stay open and continue to help those who walk through their doors.

Like everything in life, there is the good and the bad: the ones who play fair and by the rules, and the ones who take advantage of the worker and are concerned with nothing more than profit. It makes absolutely no sense and seems extremely unfair to punish all the respectable rule-abiding agencies because of the fly-by-night and money-driven ones. If these agencies are not here to do what they do, they can't help those who really need it.

Please do not pass Bill 139.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. We have just under two minutes, so I'll allocate 30 seconds per party. I'm not

sure of the sequence, so we'll start with the official opposition, either Mr. Bailey or Mr. Miller.

Mr. Robert Bailey: Thank you, Ms. St. Pierre and Ms. St. Pierre, for your presentation this afternoon. So it would be fair to say that without the opportunity of temporary agencies, as you have outlined, you probably wouldn't have had the opportunity to get into the workforce, be able to network and improve your job skills. Would that be fair to say?

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Ms. Laura St. Pierre: I would think so. Working where I am right now at 3M and talking to a lot of the people on the floor that I'm with, a good portion of them have all gotten in through an agency. Coming out of university, one of the struggles that I had was to get somewhere where I could actually grow with the company, but every company seems to want some kind of experience, and how do you get it if no one is going to let you have a chance?

The Acting Chair (Mr. Joe Dickson): Ms. DiNovo from the third party?

Ms. Cheri DiNovo: No questions, but thank you. I know it must have been difficult to talk about an illness like depression, so I commend your courage.

The Acting Chair (Mr. Joe Dickson): From the government, member Dhillon.

Mr. Vic Dhillon: Thank you, ladies, very much for making your presentation. I just want to make a comment. I don't really have a question. I appreciate your views. We're of the view that temp agencies are a vital part of our economy; they help the workforce. We're all in favour of the good ones that bring about good outcomes for employers.

I don't know if you were here before or throughout the hearings. There have been independent presenters who have presented their story, and their storyline is the same in terms of the views that they suffer, and it's to correct those wrongs that, for the most part, we're going through with this bill. Again, I just want to reiterate that we're not against the good temp agencies that bring about good results, not only for themselves but also for the workers. We appreciate your being here, and once again, thank you very much for your presentation.

The Acting Chair (Mr. Joe Dickson): Thank you, member Dhillon. Thank you very much, ladies. Well done.

BRAMPTON BOARD OF TRADE

The Acting Chair (Mr. Joe Dickson): I would then call on Mr. Gary Collins, the Brampton Board of Trade. Welcome. Please introduce yourself.

Mr. Gary Collins: Good afternoon. My name is Gary Collins. I'm the chief executive officer of the Brampton Board of Trade. I'd like to thank the committee for hearing us with respect to Bill 139.

Our presentation will be done by Carman McClelland, the president of the board of trade and a former member

of the Ontario Legislature, and the conclusion will be done by Linda Ford, our immediate past president.

Mr. Carman McClelland: Thank you, Mr. Chair, members of the committee, staff, I appreciate the opportunity to be here today to present our views for your consideration with respect to this particular legislation.

I want to indicate that as president of the Brampton Board of Trade, I'm here speaking on behalf of our membership of some 1,200 businesses representing literally tens of thousands of employees in the area of Brampton, Ontario. Many of the employment services agencies from Brampton are in fact part of our membership, as well as other members in every sector of the economy that benefit from these temporary employment services that are provided to them close to home and in the community itself. That happens to fall into two major categories, principally manufacturing and in the area of warehousing, logistics and transportation.

We in the Brampton business community are supportive of enhancements and regulations that protect temporary workers and ensure employment standards that are representative and respectful of the temporary relationships among the players. Our staffing agency members are legitimate businesses; they work with professional clientele at a high level of integrity. They're building their businesses and their communities by creating opportunities for local talent. They contribute on a variety of fronts in terms of the cultural and social and the voluntary sector as well. They are an integral part of our business community and the community at large.

The recent budget of the government envisions a global, competitive Ontario creating jobs, driving economic recovery and speaking of prosperity for the future. Changes made to the sales tax and corporate tax indicate the need for businesses to make investments on their own for growth.

We would submit that temporary employment allows businesses of all sizes and sectors to flex their market, conduct short-term special projects, contracts, research, development, plan, measure, assess, access experts, and build at a substantial pace and at a pace that is sustainable and measurable.

Temporary employment is vital. It's important to the smallest and newest businesses, those with the greatest potential for growth.

Temporary employment opportunities are good for the community. They work to integrate underemployed persons, get them into the workforce, and those who cannot or who have chosen not to work on a full-time, permanent basis.

We would respectfully submit that if passed as written, Bill 139 would have administrative, legal and financial costs that will be measurably increased for temporary staffing organizations. These costs will be passed on to the client, the general business community, which can ill afford it, particularly at this point in time—increased statutory holidays, minimum wages, high energy costs, profit-insensitive taxes, like property taxes etc.

The competitive gains that we expect from recent budget proposals, which we hope will come into play, we

submit, would be threatened in part by the legislation as crafted.

Ontario will have the most regulated temporary employment regime in North America, which will diminish the attractiveness of this region as a place for investment.

If passed as written, the negative impacts will be felt by the legitimate businesses. I thank our local MPP, Mr. Dhillon, for saying that he supports them, but our submission would be—and we'll hear some specifics momentarily—that you don't deal with the mischief by punishing and adversely affecting those who are conducting their business in an appropriate fashion with integrity and professionalism.

The fly-by-night operations are going to be a mischief that has to be dealt with, but we would submit that Bill 139 will punish the good players, if you will, in the regime. The only way to ensure that individuals have access to legitimate opportunities with the protection of employment standards is to ensure a viable and thriving temporary staffing industry. Market forces will quickly and effectively eliminate any rogue operators, and those who continue to operate ought to be dealt with specifically for the mischief and the harm that they bring to bear, without punishing the legitimate operators, which we submit Bill 139 very clearly and predictably will do.

I'd ask now my colleague, past president of the board of trade and a person who is actually involved first-hand in the industry, Ms. Linda Ford, if she would conclude our submission. Thank you, Linda, and thank you, members.

Ms. Linda Ford: As part of the introduction, I'd just like to say that the employment and staffing industry is amongst the largest employers in the world, and it is important to recognize that there is a need worldwide for the integration of people through the use of temporary help into businesses and especially to ensure our competitiveness.

There are some areas in which we have some great concerns, and we have specific recommendations for reconsideration. Subsection 74.4(2) reads:

"As an assignment employee of a temporary help agency does not cease to be the agency's assignment employee because....

"(b) he or she is not assigned by the agency to perform work for a client on a temporary basis."

The impact is that regardless of the reason for the lack of assignment of any employee by an agency, the employee-employer relationship continues. Reasons for non-assignment include choice of the employee not to work, the end of a task or a contract, unavailability due to other employment, education or family obligations, and reasons like failure to contact their agency. This provision disregards the short-term, temporary or trial relationship inherent in temporary staffing arrangements.

In no other jurisdiction are people who are not actively employed considered to be employees.

Our recommendation is to remove clause (b) under subsection 74.4(2).

Subsection 74.8(1), exception number 8, reads, "A temporary help agency is prohibited from charging a fee

to a client in connection with the client entering into an employment relationship with an assignment employee, except as permitted by subsection (2)."

This provision disregards the legal foundations of business practice, confidentiality, contract negotiation, competition and fiduciary duty.

This provision does not respect the variations of services and development of relationships between the client, the employer and the employee.

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The prohibitions propose to prevent barriers to permanent employment. Temporary staffing agencies have successfully transferred a majority of their assignment employees to their clients for permanent full-time employment. Rather than create barriers to full-time employment, the relationship between the agency and the client creates opportunities that would not happen if it were not for the employment agency and had that relationship not previously existed.

Prohibition 8 limits free enterprise between two commercial entities. It is not the place of government to decide contracts and fees for the entrepreneurial businesses in this world. We recommend removing prohibition number 8 under subsection 74.8(1).

Subsection 74.11(1) reads as though temporary staffing agencies would be responsible for tracking and administering termination and severance obligations without the benefit of information regarding the temporary assignment employee's activities during the 35-week period. Agencies would have to front-load costs of engaging in assessment, evaluation, calculation and collection of severance monies and activities onto their clients' bills and apply it across the board, despite the fact that the individual employer of record has fulfilled all the employment standards obligations regarding termination and severance. Agencies would have no recourse should an assignment employee quit/leave their assignment of their own accord. Normal employment standards do not impose any severance or termination obligations upon the employer in these situations.

Our recommendation is the rework of termination and severance section 74.11 to ensure it is reflective of the employment standards that obligate all business and does not create a special set of standards for temporarily assigned employees, their agencies and their client businesses.

Mr. Carman McClelland: Members of the committee and Mr. Chair, I'd certainly be pleased to entertain and respond to any questions, as we're able.

The Acting Chair (Mr. Joe Dickson): Thank you, past member McClelland. We have 22 seconds, which will give you about seven each.

Mr. Carman McClelland: Time to clear our throats.

The Acting Chair (Mr. Joe Dickson): If anyone has a statement to make, the next speaker would be the third party, Ms. DiNovo, if you wish.

Ms. Cheri DiNovo: Just a general question. Do you think that two people doing exactly the same job should be paid different rates?

Ms. Linda Ford: I think that if two people enter the workforce at the same point, they should be paid the same.

Ms. Cheri DiNovo: Taking into account seniority and time at the job.

Ms. Linda Ford: Like I said, from an entry-level perspective, if they're both starting the job today, they should both be making the same rate doing the same job. I think that does vary with level of experience, certifications, education and length of service—

Mr. Carman McClelland: The *[inaudible]* the company, the employer.

Ms. Linda Ford: Yes, all those things.

The Acting Chair (Mr. Joe Dickson): Thank you. I appreciate your presentation. I cut off the other two speakers. I'll give you time on the next speaker.

KIM FLINN

The Acting Chair (Mr. Joe Dickson): The next speaker is Kim Flinn. Please come forward and introduce yourself.

Ms. Kim Flinn: Good afternoon. My name is Kim Flinn.

The Acting Chair (Mr. Joe Dickson): Welcome.

Ms. Kim Flinn: I'm here today to tell you how the staffing industry has had a huge impact on my life and that of my family. For 20 years, I was very busy at home raising two children, one of whom is severely disabled. When I was finally able to consider re-entering the workforce, the only people who were interested in assisting me were the recruiters in the staffing industry. My skills were pretty rusty, and I was pretty nervous. But they were very supportive and helped me to find resources within my community where I could update my computer skills etc. In addition, they provided me with online tutorials I could do at home in Word, Excel etc. They helped me continue to learn and improve my skills.

I was given the opportunity to work within this agency office as an internal temporary employee. I started as a part-time receptionist and, as my skills improved and I gained experience, my role was expanded to include various administrative duties to the point where I was working full-time and was responsible for completing their temp payroll, as well as becoming the primary contact with the HR department for their largest client. I was also given the opportunity to assist in the process of recruiting, pre-screening and conducting skills evaluations for candidates applying for jobs.

After one year, they offered me a permanent position, which I declined because the opportunity for a job with another staffing agency became available. I was hired by this second agency and worked again for one year as an internal temp. Then I was given a permanent, full-time position, which is where I am still employed today.

Presently, I am responsible for processing the weekly payroll for two divisions of our company, approximately 250 people, including completion of all records of employment, payroll/invoice adjustments, providing client

and employee customer service, completing applicant references, managing and maintaining employee and client electronic records, preparing financial reports for clients etc.

If it were not for the support and opportunities presented to me within the staffing industry, I would not be where I am today. It has been a steep learning curve—one on which I have thrived—and I continue to enjoy working within this industry. I really enjoy working with our employees and seeing them experience the same type of success that I have. It is satisfying to see people come into our office unemployed and leave with the opportunity for employment, often the very next day.

I continue to recommend to my friends, family and acquaintances that they seek opportunities for work from agencies. My oldest daughter started as a temp employee with a financial institution that was a client of ours and, after a time, she was hired on a permanent basis, received benefits and eventually received a promotion. My daughter's boyfriend enjoyed the flexibility of working with our agency as a student and was also offered a permanent position, but declined as he was returning to school in September. My husband's friend lost his job due to a plant closure, and he too gained permanent employment through our agency.

There are numerous success stories as the result of opportunities for employment gained with staffing agencies, and I am just one of the many. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much. Is there anything further to add?

Ms. Kim Flinn: No. That's what I wanted to share with you today: Had it not been for the opportunities I've been given, I certainly wouldn't be where I am today.

The Acting Chair (Mr. Joe Dickson): Okay. Thank you. I will now give one minute each, starting with Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. When you became a permanent employee, are you aware of any fees that might have been paid for you to become a temporary to permanent employee, and if so, what the fees were?

Ms. Kim Flinn: No.

Mr. Vic Dhillon: So you don't know if there were any fees paid?

Ms. Kim Flinn: I was working with an agency. I was hired as a permanent position within the agency itself, so I doubt there would have been any type of fees.

The Acting Chair (Mr. Joe Dickson): Mr. Bailey or Mr. Miller?

Mr. Norm Miller: Thank you very much for your presentation. You've certainly outlined many positive benefits of your experience in terms of building skills and being able to get back into the workforce, and I think you also talked about flexibility. You've had lots of experience working in temporary help agencies, and obviously the government sees problems. So I would ask, do you see any problems in the experience you've had working with temporary help agencies that are unique to that industry or are different from any other workplace?

Ms. Kim Flinn: No, I don't. As a matter of fact, I think what it does is remove a lot of barriers for employment for people, particularly right now in the economic situation we're in, where a lot of people, like my husband's friend, have been in a particular place of employment for 25 years, the plant closes and they're really at a loss. When they come and see us, they find that we're very empathetic and supportive. We can help them find employment.

We don't always just want to find them employment with us. We're very supportive. We'll say to people, "Go to other agencies. Find work for yourself." We've often said to people, "If you find an assignment with another agency, good for you." We want to see them working. I find they're very, very nervous, and it feels really good to be able to help those sorts of people when they come in, or oftentimes young people who don't have any experience. I find they're treated very fairly, and as I do the payroll, I can see that they are treated fairly.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I'm going to go to Ms. DiNovo for about 15 seconds.

Ms. Cheri DiNovo: Just quickly, this bill does not include nannies or home care workers—clearly, some of the most exploited workers. Our suspicion is that it's because the government pays for home care workers themselves, so they haven't covered their own temporary employees. Any comment?

Ms. Kim Flinn: No, I don't have any comment on that.

Ms. Cheri DiNovo: Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you very much for a wonderful presentation. Thank you for your time.

Ms. Kim Flinn: Thank you.

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CHRISTINA GORDON

The Acting Chair (Mr. Joe Dickson): The next presentation is Stephanie Beres. Good afternoon. We have your—

Ms. Christina Gordon: Yes, good afternoon. My name is Christina Gordon. I have worked as a temporary employee for 17 years. I was hoping to appear here together with my colleague and friend Stephanie Beres, but unfortunately, I am here on my own. I have submitted Stephanie's report to the clerk, and it is available. My report is also available. Stephanie and I are both temporary workers. This is Stephanie's; mine is a little bit longer.

Have you ever wondered what a performer does when they aren't under contract or in a production house? They have rent and mortgage payments, and they also have basic expenses of living. So what are they going to do? Some of them waiter, some of them do retail, some teach and some, like myself, temp.

I have used a temp agency for almost 18 years now to fill in the gaps between my professional engagements. As

a performer, I am a contractor, so I cannot go on EI, even though I pay it when I do a desk job. That's a federal matter, and we won't get into that.

I think I should work, because I can work.

Other than basic typing, all of my training as an admin assistant, specializing in payroll and accounting, has been gained through my various positions through the temp agency. I get paid when I work and for the work that I do.

Every Wednesday at noon, I pick up my paycheque. This has been the norm for the last 17 years. While at the office last week picking up my paycheque, I decided to check into the application process currently being used. I hadn't applied for this company for 16 years, so I was sure that it had changed a bit.

I was shown a standard application form: release forms for credit checks, that kind of thing. There was also a take-away page that clearly outlined the ESA, the Employment Standards Act, and my rights to work as an employee in Ontario. There was also a form for vacation pay entitlement. I was given a lovely payroll package that had timesheets in it so that I knew I had to send in my timesheet on time to get paid. There was also an option to have direct deposit, which is great if you're working outside the scope of the agency.

Furthermore, I saw an incredible collection of people applying that day. There were new Canadians, mothers returning to the workforce, labourers and even a guy in a Hugo Boss suit—obviously a senior executive-type person who had been recently laid off. I can only assume that, because he was at a temp agency.

I also was asking about the difference between "basic labourer" and "office worker," and I was given a safety program handbook, which was compiled by the agency. Also, a new and young workers awareness policy was posted.

If I ever need to update my skills for a particular assignment, I can go in and use their computers and their programs. I can also have the program e-mailed to me, and I can update my skills at home.

My 17 years have contained some interesting gigs. At every assignment, the agency had my back. Within four hours of arriving at the client's, I get a phone call from my consultant, asking me how it's going.

I have run reception at ad agencies, financial companies and government ministries. I have done payroll, accounting and collection calls. I have filed medical charts at a doctor's office, and was asked by my consultant if the filing cabinet was sturdy and bolted and if the stool was up to code. I have tracked down new addresses for RRSP statements. I have conducted satisfaction surveys at the Ontario courts, which actually served as an incredible character study for me, because there are some really interesting people in the Ontario court system.

In all these years, I have only had two scary moments. I was once sent to the wrong hotel to do convention. I was sent to the Delta Chelsea, and the people in Michigan, the company that sent me there—not the temp agency, but the company, the client—it was actually

happening at a totally different hotel. I was in a quandary as to what to do. I went to the agency and waited until the doors opened. The then branch manager escorted me to the proper hotel, once we figured out the problem, and she took the yelling, rather than me.

Another posting was a nightmare from the minute I got it. A receptionist for a paint company's head office called in sick the day of a hostile merger, so there was no one on the phone.

I got there, and the phone system was something like a cross between Uhura's station in *Star Trek* and the "one ringy-dingy," pushing-the-buttons kind of thing. I was freaking out. I had people screaming at me for an hour and 15 minutes until there was a very friendly voice, finally, on the other end of the line. It was my consultant. She had been instructed by the company to send me home. I had no problem with that whatsoever. But on discussion with my consultant, she said that I would be paid for four hours of work minimum, regardless, because the expectations were unrealistic.

I fully understand that my pay is lower than what the client is billed. The markup, however, is not that substantial, and it reflects the fact that staffing services are businesses, not government services. So we must keep a competitive margin, okay? I am willing to pay that extra bit of money to have access to a pool of jobs when I'm unemployed. The client also does not have to pay for an HR division, because they would normally have to set aside an office and a person to interview new staff, to make sure that all of their signatures are correct, that they're actually even legally allowed to work in Ontario.

Even though almost all of my postings have produced an offer of permanent employment, I choose to leave my desk job to be a performer. I have performed in seven of the provinces across Canada and have been a card-carrying ACTRA and CAEA member for over 22 years. I myself have personally suggested my company to over 20 performers who have either worked temp, continue to work temp or have gone permanent as their acting careers have slowed down.

It is my understanding that there are two sections of Bill 139 that are being questioned. The bill on the whole looks lovely as far as I could read through it with my limited legal knowledge. But I read the Hansards—I had to google that word because I didn't know what it was—and I was horrified by the accounts of some of the speakers myself. That is why I'm here today: to show the reality of my 17 years with an established staffing service. I think some of the infringements could be stopped by a closer adherence to the Employment Standards Act.

In closing, most temps work temp by choice, either to try out a new profession or location, to pay for upgrading their education or to facilitate a change in the family dynamic. I have been able to balance my chosen profession on the stage because I can always call up my agency and tell them when I'm available for office work.

If the two points, continuance of employment and six-month limitation of client fees, are left to stand as they

are, I fear they will effectively cut off thousands of temps and temp-to-perm employees—

The Acting Chair (Mr. Joe Dickson): Thirty seconds.

Ms. Christina Gordon: —from the jobs they need. Thank you very much.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation. Well done.

THE PEOPLE BANK

The Acting Chair (Mr. Joe Dickson): The next presenter is the People Bank, Londa Burke, vice-president of operations.

Ms. Londa Burke: Hello.

The Acting Chair (Mr. Joe Dickson): Welcome. You have 10 minutes.

Ms. Londa Burke: I'm Londa Burke, vice-president, operations of the People Bank.

In 1986, I came to Canada as a landed immigrant. I sent my resumé to over 50 companies and only received one call back. It was from a temporary help company. My consultant wanted to place me at the ministry, but my paperwork was not complete. The following week, when I was eligible to work, my consultant said she had a one-day temp assignment in their office.

This one-day assignment lasted me a lifetime. I was quickly promoted to a consultant myself. Over the past 22 years, I have placed thousands of people on temporary assignments that went permanent. Many are now in senior positions due to their work ethics. Many of the employees were too shy to do a good interview or their resumé did not express the full reflection of their experience. After coaching and working on the job as a temp, these employees received great jobs. It was an added service that I did at no cost.

Our service is also great for the return-to-work moms who need recent experience so they are eligible to get full-time jobs, or someone who wants to do a career change. We help them with getting the opportunities they deserve. I enjoyed watching them go from little confidence to feeling great about their skills. I could go home at the end of the day feeling proud that I had made a difference in the lives of these people. I have received many thank you cards, letters and flowers, thanking me for helping them achieve their potential. Many were landed immigrants just like me.

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I am proud of what I do. I'm a certified joint health and safety officer and I go to most sites myself to review the safety. I have declined business if I feel the temporary employees are in jeopardy. I have always treated everyone how I want to be treated and I have always been honest with our temporary staff. I know that being placed by a temporary help company myself made a difference in my life and made moving to another country that much easier to absorb.

At our temporary help company, we partner with government agencies such as HRDC, YMCA and

COSTI. We help these agencies get these staff back to work. We hold job fairs, we assist them in their resumé-writing and we coach them on interview techniques. We also allow, at no cost, for the temporary staff to take advantage of upgrading their software skills.

I have seen the bad publicity; that the temporary help agencies make oodles of money. I can tell you honestly that's not even close to being true. We make 50 cents to a dollar per hour, and that has to pay for our advertising, our testing, recruitment staff, our guarantees to our clients if the temporary doesn't work out and all other ESA obligations. We have all been hearing in the media all the bad things that the agencies are doing. This is just a handful of bad companies, as in any industry. Please do not penalize the great temporary help companies that do great things for people and get them jobs. We are their lifeline, and Bill 139 will take this away from them. These are the people who need and trust us the most. So I am requesting changes to Bill 139.

Recommendations of continuous employment while not working: Do not codify a continuance of employment; and recognize or respect periods of active versus inactive employment. There is no employment when the assignment employee's inactive or not on the assignment. Delete clause 74.4 (2)(b), "An assignment employee of a temporary help agency does not cease to be the agency's assignment employee because ... (b) he or she is not assigned by the agency to perform work for a client on a temporary basis."

Do not impose a different and more onerous legislative standard on staffing firm employers. The notion of implied continuance of employment is contrary to well-established principles of employment law and existing provisions contained in regulation 288/01 to the Employment Standards Act. Regulation 288/01 respects the nature of fixed-term temporary employment.

Recommendations for regulating business terms and client fees within service agreements: Remove paragraph 8 of section 74.8(1), and exception (2), which interfere with business terms, and refocus attention on the employment-related issues such as employment agreements and employment terms so that a worker is never unfairly restricted from seeking employment with prospective employers.

Thank you for your time. Any questions?

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation. We'll commence now with questions from the official opposition. Mr. Bailey or Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. So basically, in summing up, you've had a very positive experience. In your opinion, would you say the great majority of temporary help agencies are doing a good job and both employees and the companies are good businesses? I guess I can put it that way.

Ms. Londa Burke: Absolutely.

Mr. Norm Miller: So it's the minority, and as I think a previous presenter said, this bill is going to negatively affect all the businesses instead of going after the few bad apples.

Ms. Londa Burke: Absolutely. It will really hurt our temporary help company, along with thousands of others in Ontario.

The Acting Chair (Mr. Joe Dickson): Thank you very much. The third party, Ms. DiNovo?

Ms. Cheri DiNovo: There are no questions. Thank you for your deputation.

The Acting Chair (Mr. Joe Dickson): Thank you very much. I will go to the government.

Mr. Vic Dhillon: Thank you for your presentation. Does your firm charge temporary-to-permanent fees?

Ms. Londa Burke: Actually, rarely. I won't say no. Most of them, it's anywhere from six weeks to 20 weeks, depending on their skill level, and we do not charge a perm fee for those positions. The only ones where we would charge a fee, and it's pre-negotiated in advance, would be for higher-level positions. But for entry level work, absolutely not.

Mr. Vic Dhillon: What type of testing do you do to recruit?

Ms. Londa Burke: What type of testing? It depends on the skill level and the position. If it's labour positions, for instance, we have some labour types of testing. If it's for clerical and that sort, we might put them on Word, Excel, a clerical test and so forth.

Mr. Vic Dhillon: You mentioned your mark-up is 50 cents to \$1 per hour, but in the deputations we've heard today and the previous day, we've heard examples where permanent employees are earning \$26 an hour and a temp employee is earning \$13 an hour; a permanent employee is earning \$16 an hour and a temp employee is earning \$9 an hour. Why such a large spread? What's your gross margin? Fifty cents to a dollar: Is that a gross amount?

The Acting Chair (Mr. Joe Dickson): I'll give you 30 seconds to answer that.

Ms. Londa Burke: That's after we take out all the burdens that we have; we're left with 50 cents to \$1 per hour.

Mr. Vic Dhillon: That's your profit?

Ms. Londa Burke: Yes.

Mr. Vic Dhillon: What would be the gross?

Ms. Londa Burke: A good question. Maybe about—

Mr. Vic Dhillon: On average.

Ms. Londa Burke: On average, it's maybe half of that—I mean, double that, probably. It depends.

Mr. Vic Dhillon: So \$2?

Ms. Londa Burke: Maybe. Well, I don't know that answer, I hate to tell you. I don't want to say something and just come up with it, but I can tell you that we make very little every month; in fact, in some months, negative numbers. So we don't make money.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your question and answer. Thank you for your presentation. Excellent.

HOMEWATCH CAREGIVERS

The Acting Chair (Mr. Joe Dickson): Our next presenter is Homewatch CareGivers, serving—it sounds

like a commercial—Burlington, Oakville and Mississauga west. Scott McNabb, president and owner. Welcome, sir.

Mr. Scott McNabb: Good afternoon. I'm Scott McNabb, president of Homewatch CareGivers in Burlington, Oakville and Mississauga. Thank you for providing me this opportunity to address you today on this important issue.

Homewatch is very supportive of the Ontario government's initiative to promote and protect employment rights and to correct specific situations in sectors where workers are not being fairly treated.

I'd first like to mention that I have read the Ontario Home Care Association's submission and I fully support their comments and recommendations, and I'll limit my comments to four key issues.

First of all, I wish to emphasize that home care service providers provide valuable and specialized services, and we're not just employment placement agencies. We provide a wide range of services to clients, many of whom are in the vulnerable sector of our communities. These services can include regulated health care professional services, such as nursing; personal care services, such as bathing, dressing, toileting; and home support services, such as healthy meal preparation, companionship, transportation and light housekeeping.

Our caregivers are specifically trained for specialized services such as Alzheimer's care and palliative care. Our clients engage us because they require our specialized care-related services. The services that we provide are based upon personalized home assessments, a consultative process with the prospective client and their family members. The care plans are designed to specifically meet the needs of the client and be flexible—to provide services when and where they are required. The flexibility in the range of our services and the flexibility as to when the services are provided enable our service to be cost-effective and affordable for those we serve, and to provide the best value to our clients.

Our mission is to preserve dignity, provide independence and provide peace of mind for our clients and their loved ones by providing exceptional home care service. In order to do so, we hire the very best caregivers to provide these services. The caregivers are our employees. We take our responsibilities to our clients very seriously, as they are part of the vulnerable sector of our community—seniors, disabled individuals and young children.

Homewatch CareGivers is accountable to our clients for the performance of our caregivers, and the caregivers are accountable to us for their performance. Homewatch CareGivers is also responsible for protecting both clients and caregivers. Our caregivers are well trained in the safe delivery of our services and they are bonded. With respect to our caregivers, we provide extensive training to help them work safely, we provide WSIB insurance coverage and also we pay our share of CPP and EI obligations.

"Home care providers are not 'temporary help agencies' that supply and assign employees to a 'host' employer. There are identifiable differences between the structure of the temporary help agency and the home care provider."

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As I mentioned, our caregivers are our employees. They are our most valuable resource and the core competitive strength of our company. We seek caring and capable caregivers who possess the highest level of integrity. We diligently train and motivate our caregivers, to ensure they have the skills to work safely and productively.

Each caregiver undertakes a thorough orientation program where their rights and their responsibilities are clearly and plainly provided. We also provide extensive training in specialized care, such as Alzheimer's and palliative care, as I mentioned.

Each caregiver is given a comprehensive care book for each and every assignment. This care book is complete with the client's living co-ordinates, the care plan, which outlines the services that they are to provide, a log for when they arrive and depart, emergency policies and procedures and the client bill of rights.

In order to meet the needs of the client, our care plans need to be flexible and designed to provide services when and where required. We provide services 24 hours a day in discrete segments. We could be contracted to provide services for eight hours from 10 p.m. to 6 a.m. to provide palliative care for a client in their home or three hours one Monday morning to permit a caregiver some respite, and then again Thursday evening. Flexibility is the key in our industry. We provide our services in private residences, retirement homes, long-term-care facilities and hospitals—wherever our client resides.

In order to provide this flexibility, we look to employees who are mobile and flexible in their preferred work schedules. Many of our employees work part-time and stipulate the hours during which they would be available. It's a symbiotic relationship that works well for our caregivers and our clients. For example, a young mother may choose to work only evening hours when her husband is home and available to care for their children, or alternatively, a student who is looking to earn wages to support their education may only be available to work during the weekends.

We seek to hire, train and retain capable career employees. In the vast majority of cases, where a caregiving assignment is disrupted, it is due to the change in client circumstances, such as death or transfer to a long-term-care facility; or by a change in the caregiver's circumstances, such as moving to a new city or returning to school for further education. In both scenarios, the change is beyond our control. We do, however, adjust and adapt quickly to provide continued employment for all of our caregivers through obtaining clients in a competitive market.

I also wish to note that the private home care services sector is helping the Ontario government achieve its

goals in transforming Ontario's health care system and, in particular, implementing the aging at home strategy.

I will quote the OHCA's submission. I think it is very well stated:

"All home care services enhance quality of life, are cost-effective and prevent unnecessary hospitalization, emergency department admissions and premature institutionalization, thereby serving the broader goals of the Ontario health care system.

"All home care providers in Ontario, regardless of the type of funding source, bridge the gap between the various settings of health and social care, including acute care hospitals, emergency rooms, supportive living, long-term-care facilities, hospices and the physician's office. These close linkages meet the client's needs in an individual and comprehensive manner and go well beyond physical and mental health care to engage social supports as well."

I would also like to acknowledge that we're fully supportive of the exemptions that are afforded to individuals providing professional services, personal support services or homemaking services as defined in the Long-Term Care Act, 1994, if they—or their employer—have contracted with the community care access centre under the Community Care Access Corporations Act, 2001.

We wish to highlight, however, that the private home care services sector provides identical services to those providers, to the same vulnerable sector throughout Ontario.

The exemption to these individuals who have contracts with the CCAC creates a significant competitive disadvantage to the private home care providers, not only to us but to other reputable providers throughout Ontario that are not contracted with the CCAC. This disconnect provides yet another impediment to the health and vitality of the private home care services sector.

Homewatch CareGivers is also very concerned that the provisions in Bill 139 could significantly increase the cost of providing caregiving services, the implication of which would be to either adversely impact the financial well-being of the home care service providers or increase the cost to our clients, namely seniors, the disabled and children—all of whom are members of the vulnerable sector.

As a footnote, I'd like to mention that the recent regulatory change in the holiday pay had the impact of increasing our payroll costs by 4% and will likely increase the cost of our payroll throughout 2009 by 3.3%. Further to this, the recent harmonization sales tax proposed by the Ontario government could increase costs to our clients by another 8%. Homewatch CareGivers strongly recommends to the standing committee that private home care service providers be provided the same exemption as that afforded to individuals providing professional service under the Long-Term Care Act and who are contracted by the CCAC.

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation today here, sir. We appreciate it.

ALTISHR

The Acting Chair (Mr. Joe Dickson): The next presenter is altisHR, Kathryn Tremblay. Welcome.

Ms. Kathryn Tremblay: Hi. I'm Kathryn Tremblay. I'm with altisHR, and I started my business in 1989 in Ottawa with \$750 at 21 years of age. I've invested my life building this business. It's been an incredibly wonderful experience. Our company turned 20 years old this month—and yes, I just gave you my age—but we were named among Canada's 50 best-managed companies in 2006 and have requalified every year since then.

We have 2,000 temporary employees on assignment every day in Ontario and 100 permanent employees. We are the largest supplier of staffing to the federal government in Ottawa and also among the leading suppliers to the provincial government.

Before this committee decides on the fate of our industry and on the fate of my business, I am asking you to seriously look at this bill. What concerns me gravely are some of the comments I've heard today. Contrary to what the president of the auto workers' union said—that temporary workers are paid 40% less—this is absolutely inadequate for our 2,000 workers. Our employees who are temporary earn between \$15 and \$75 an hour. Our highest-paid makes \$100 an hour or \$1,200 a day normally. Our workers are professionals. They're administrative candidates, from secretarial to accountants. These are not all these low-wage workers under these circumstances; they are highly remunerated, and they have very specialized skills.

In the private sector, about 38% of our candidates become permanent as a result of our temporary introduction. We get them their foot in the door. In the federal government, about half of our temporary workers are offered terms and casual employment after we've introduced them to these experiences. We process 6,000 security clearances every year in order to help our candidates get their foot in the door to the federal government. We offer this service for free, and we try to support their ability to get that foot in the door.

What has horrified me in this process, listening to all of this, is that our sector is being made out to be some kind of villain. We are absolutely the contrary to that. We are not fraudulent; we are certainly not fly-by-night. We have 20 years' experience, and we have wonderful employees who care every day about what they do.

With the continuance element, which has concerned me gravely, the responsibility has now shifted to us to be responsible for a temporary worker for 35 weeks after they finish. This will be so onerous to our company that we will have to shut down. I am hoping not to have to go out of business.

Specifically, our average assignments last 18.81 weeks. Based on applying the rules, it would take us 22.8 weeks to actually break even on our assignments. That means that we would lose 0.7% on every candidate that we place on an 18-week assignment. We would not be able to stay in business under those circumstances. Or we could pass on the cost to our client, the client being the employer. As Kelly Harbridge from Magna said, I don't believe any company in Ontario right now can absorb an extra 5% or 6% cost for a temporary worker. This is not the time for us, in this economy, to go to our client and say, "Oh, by the way, can you pay another 5% or 6%?"

1700

Our company is down about 21% in sales as a result of the economy and we've had about four or five clients close their doors since January. We are certainly not hoping, under these conditions and with this bill, to now go back to our client and say, "Can you handle an increase?"

There is no other business with this legislation; there is no other jurisdiction with this legislation. Quebec and Alberta have looked at similar legislation and have struck it down. We would certainly like you to re-look at this element because it's not even clear to many people how it will be applied. We have spoken with our legal team and the legal team of ACSESS, our national association, and no one seems to have the exact same interpretation of the bill. We believe that each person at this table needs to seriously look at the effect on business before making this decision.

Every economy relies on temporary workers. In our experience, within our clients, 95% of their workforce is permanent, and 5% of their workforce or less is temporary. That temporary workforce shrinks and grows and increases or decreases as it needs to, based on their own requirements. By introducing this bill, it will make the Ontario economy less competitive and it will slow the recovery. I don't understand why this government would want to slow the recovery of this province.

The temporary employees that come to us now—we help them every day. We provide them training, we provide them jobs, we provide them advice, and we put food on their table. We pay them every week, with no holdback. We are an excellent employer, and those people who are out of work that are permanent and now need work come to us and we place them in jobs and introduce them to new opportunities.

When we go away and when our industry's been annihilated by this bill, I'm wondering who's going to help these temporary workers find work. Who is going to do that? Are they, these new Canadians, now going to send their resumé to 100 companies, 500 companies or 5,000 companies? This is not feasible for the average person. Instead, the employer comes to us, we do the selection, the testing, the reference checks, the training, and we introduce them to that opportunity. This bill will hurt those vulnerable workers. How is it that that new Canadian is going to know what 1,000 companies to apply to for that one-month assignment to get their skills

kick-started in this economy? What we're suggesting is that you deal with the fly-by-night companies. I don't know who they are, but if you do, please send your labour police in there and shut them down. Don't shut down the 99.99% of the wonderful companies that are providing jobs in this economy.

What I have been deeply upset with is that for 20 years I'm paying taxes, I'm employing people, and you're going to shut me down. I absolutely would like to know from each person here if you would be willing—this is a personal invitation to you—to come to my company, come and meet my employees, meet my temporary workers, meet my clients. Once you've done that, you will realize that the effect of this bill is too negative to continue with. Now, if there are elements of it—and I understand there are some that are good; fine. But please, at least look at continuance of employment as a major area that needs to be edited.

The Acting Chair (Mr. Joe Dickson): We have exactly two and a half minutes, so I will give you 40 seconds each, commencing with the third party.

Ms. Cheri DiNovo: Thank you for your presentation. You said that a number of your employees, your temporary contract employees, are placed with governments, federal and provincial. I've asked others this: How many temporary employees do you think the province, in terms of the percentage of their workforce, has at any one time? We're having a difficult time—

Ms. Kathryn Tremblay: It's quite low. The Ontario government used to spend \$100 million on temp help; it now spends \$25 million. It has actually reduced its requirement quite a lot. It is, I think, streaming its own cost, which is probably a good thing, and also hiring permanent workers. So we've found that it's reduced quite a bit. If you look at your entire payroll, I think you could easily come up with that number—your entire payroll and then looked at \$25 million. It's probably 1%, maybe 2% of your workforce, but certainly not more than 2%.

Ms. Cheri DiNovo: No more than 2%. Okay. Thank you very much.

The Acting Chair (Mr. Joe Dickson): The next speaker is Member Delaney.

Mr. Bob Delaney: Thank you for an excellent deputation. Congratulations on 20 years in business. I was very impressed with the grasp that you had on the detail of your market and your business.

A couple of quick questions: What's your gross margin today?

Ms. Kathryn Tremblay: You'd have to look at every single temporary worker and break it down by sector—

Mr. Bob Delaney: As a company.

Ms. Kathryn Tremblay: —whether it's professional or administrative. I don't think, as a private firm and an independent, that I would want to talk about that at this hearing, not because it would be—you'd have your pay rate, plus your direct costs, plus your operating costs, and then profit. Most of our sector earns between 2.5% and 3.5% profit.

Mr. Bob Delaney: Do you charge temp-to-perm fees?

Ms. Kathryn Tremblay: Yes, we do, and our clients find that less expensive than going about it on their own. They find it more effective to pay us to put a temporary person in to convert them to perm than to go out and put an ad in the paper.

Mr. Bob Delaney: A last quick question: Do you provide—

The Acting Chair (Mr. Joe Dickson): Thank you very much. The next question will be by Mr. Bailey or Mr. Miller.

Mr. Norm Miller: Thank you very much for your presentation. I certainly agree with your philosophy in general, about dealing with the bad apples versus the 99% of the businesses that are not trying to break the rules and are responsible companies. I guess a couple of things: Why do you think your particular industry, temporary help agencies, is being vilified—I think that's what you said—and should there be different rules for your company versus everybody else out there? Or does the Employment Standards Act cover you well enough?

Ms. Kathryn Tremblay: I don't think our sector should be addressed separately, no. I think all businesses should have the same general practice rules. In general, these rules just don't make sense for our sector. It hasn't been looked at from a business standpoint, and so, no, it doesn't make sense. It will shut us down, and shutting down the temporary help sector in Ontario certainly doesn't make any sense at this point in time in the economy.

Mr. Norm Miller: So why are you being vilified—

The Acting Chair (Mr. Joe Dickson): Thank you very much, Ms. Tremblay and Mr. Miller.

Ms. Kathryn Tremblay: I don't know.

The Acting Chair (Mr. Joe Dickson): We appreciate your presentation.

Ms. Kathryn Tremblay: Thank you.

The Acting Chair (Mr. Joe Dickson): It's good to have you here.

FERNANDO DE PASQUALI

The Acting Chair (Mr. Joe Dickson): Our next presenter is Fernando De Pasquali. Welcome. Please introduce yourself and your guests. You have 10 minutes, sir.

Mr. Fernando De Pasquali: Hello, committee members. My name is Fernando De Pasquali. I'm here with Mike Rafuse and Danny Lynch, who are here to support me on my opinions.

I'm a laid-off worker, and so are my friends here from Oshawa. I'll tell you why there's no way I would ever go to a temp agency to find work: I have a problem with the six-month exception. Why is it that an agency is allowed to just toy around with a hard worker and charge whatever fee they please, terminate as they please, pay or not pay severance as they please, so that every time a worker has a chance, and knows that he has a chance, as he gets closer to the end of the six-month period, to earn

a better wage, the agency is then allowed to just pull the plug or relocate, or title you "elect to work" and leave you jobless?

Why is it that a worker must pay a fee to get a permanent job? If you ask me, that's not a very good labour law exception. If it is prohibited or illegal beyond the six months, then that's not prohibited or illegal, now, is it? If it is illegal, it should remain illegal from the start of the contract to the end of the contract. Why should I pay a company for me to get paid? Not only is a worker making 40% less than their co-workers, but he also has fewer benefits.

The agency exceptions, I think, undermine the labour laws. They create insecurity, income instability, precarious work, human rights violations and poor work standards, whereas a worker who never gets a chance to earn a decent wage will be exempted from poor work standards, and this exemption allows the agencies to pretty much use and abuse you within that six-month period.

I have an example I'd like to talk about. I have a friend whose wife is a part owner of one of these companies, and this is what she did: When she started the agency, she had contracts with the client company where the wage of a full-time worker was \$14 an hour. She would, at the time, charge a fee of \$4 an hour for every hour worked for her company's services, leaving the temp worker at a \$10-an-hour wage. But then, when the agency became bigger and she had more temp workers on contract, she decided to raise the fee to \$6 an hour for every hour worked, leaving the temp worker at a minimum wage of \$8 an hour. That was three years ago; who knows what the fee is up to now?

How is it that an agency is allowed to take a good- or a decent-paying job and make it into a minimum-paying job? How would you feel, committee members, if your boss decided that he needed to make more of a profit, so he splits the committee in half? Both sides still have to do the exact same amount of labour, but one side's wages will be charged a fee of almost half your wage? Let's say you go from \$80,000 a year to \$40,000 a year because your boss has been given the power to extract \$40,000 per year from your wage. Would you consider that fair or unfair? If it happened to you, wouldn't you agree that this exception to the rules should be illegal? After all, you're doing the same job as your co-worker, so therefore you deserve fair and equal pay, but you can't do anything about it because the labour law has accepted this provision and made it an exception to the rule. Is that not undermining labour laws and human rights?

1710

Temp agencies believe that Bill 139 will reduce jobs, but I believe that these agencies are not creating jobs in the first place. They're supplying temporary labour. If you ask me, a worker is simply being hustled out of their income potential.

Not only that; just imagine again, committee members, if your boss decided to place you somewhere and did not give you any information on where you're going

to work, how long, with whom you're going to work and how much you're going to be making, while at the same time making you sign a contract without any clarification on holiday pay, benefits, wage or termination pay. Would you then accept the job? I know I wouldn't. Therefore, it would leave the door open for a hard worker without the knowledge or awareness of how temp agencies work. That person will sign a contract and be hustled out of their hard-earned cash. The whole purpose of employment standards is to recognize the power imbalance between employers and workers. Bill 139 should ensure that it brings temp workers the same equal rights as any other worker.

Another topic I'd like to talk about is the responsibilities that a client company should take on. The way it stands now, if there is a health and safety concern, there's nothing a temp worker can say or do because the client company will not take responsibility for a temp worker. If there's sexual harassment, again, the worker is left in the dark. Or simply being mistreated or overworked, there's nothing a temp worker can do because of the title of the work—temporary work. Is that not a human rights violation? How would you feel if you were being harassed or discriminated against, and you contact the supervisor of the client company, and he tells you, "Sorry, bud, there's nothing I can do for you. We're not responsible for you"? Is that not demoralising? It would be to me, and it would lead me to want to quit the job. If you're working in a company, that company should be responsible for any worker who is under their roof, whether temp or full-time. What would happen, then, if there's a fatal accident on the job site? Is the compensation to the family simply brushed off because the worker is a contracted temp worker?

Giving the client company the right to refuse any type of severance pay: How in the world is that legal?

You know, a lot of people wouldn't quit like I would under these standards. Some people won't, like the ones who went to these agencies for a first job, who have no idea about labour laws or rights. These are some of the people that these agencies will take advantage of, the ones who are unaware and don't know any better. I believe this is how they have tripled in the last 15 years, making billions off workers' hard labour.

I think we should follow in the steps of provinces like BC, Alberta, Manitoba and Nova Scotia. I recommend that you make fees illegal, for fairness and protection for the worker. I also recommend that agencies should be required to provide workers with the proper and clear information on job description, job site and how long it will be for.

I recommend that you remove the six-month exception to prohibitions on barriers to employment. If you were to ask me what I would do to rectify this problem, I would either charge a one-time fee or no fee at all because it would be better than taking away part of their wages.

We had a gentleman here earlier who said they had 35,000 temp workers under contract, and 16,000 of them were in Ontario. That should tell you right there that the

exceptions are too lenient in Ontario. These companies are able to give donations and do charity because they have taken part of a worker's hard-earned wage to make this possible. Without these changes, Bill 139 is not a step in the right direction, except in the eyes of an agency because all they care about is their profit.

If anything, it's a step backward. So these companies, again, use the wages of a worker to pay for their own advertising and business costs, as was said earlier.

The charge should not be variable, either. It should be a flat fee or no fee at all. Just the fact that none of these companies can tell you specifically what percentage a fee is—I see that as a problem.

You also asked a lady earlier how it would affect the agency. What she came up with is that it would affect the flexibility. I don't think it's the flexibility that would be affected; it would be their profit, and that's what they care about. Also, another person said earlier that sometimes they don't pay severance because a temp worker would not contact them. He also said there's no way a company can keep track or contact their employees. How's that possible? Do they not sign the contract with the name and address of their employee? That's just a poor excuse, if you ask me. Thank you.

The Acting Chair (Mr. Joe Dickson): Thank you, Mr. De Pasquali. We have exactly 22 seconds left, so I won't entertain any questions. But thank you for your presentation and for the guests who are here with you.

OAKVILLE AND DISTRICT LABOUR COUNCIL

The Acting Chair (Mr. Joe Dickson): The next presenter is Oakville and District Labour Council. Welcome.

Ms. Norma Pennington-Drabble: Good evening. Thank you for allowing this presentation this evening.

My name is Norma Pennington-Drabble, and I'm the second vice-president of Oakville and District Labour Council and the political education chair.

Bill 139, Employment Standards Amendment Act (Temporary Help Agencies), aims to remove barriers to permanent employment and protect the rights of vulnerable workers. The province wants to ensure legislation reflects the realities of today's workplace and labour market in a balanced way.

In terms of background, what is a temporary help agency? The Ministry of Labour employment standards fact sheet defines a temporary agency as a company that sends its employees on temporary work assignments to its client businesses. The temporary help agency is the employer for the purposes of the Employment Standards Act.

Over 700,000 people in Ontario have temporary jobs, employed through over 1,000 temporary help agencies. This is worth \$8 billion a year to Canada, with 57% of that in Ontario. The sheer number of those involved in temporary work and the probable increase in these numbers in our uncertain times demands protection of these workers.

The province of Ontario has protected all persons in the Human Rights Code, stating:

“And whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the province....”

In terms of the background, I'd like to skip now to what the amendment act, as it was tabled in December, actually says. It establishes that the temporary employees are covered by the Employment Standards Act. Where the Ministry of Labour has translated this information, it must be provided in the first language of the agency's employees. When a temporary employee is assigned to work by a temporary help agency, that agency is the person's employer, and this person is an employee of that agency. The act, as it stands, ensures that temporary workers are aware of their rights under the Employment Standards Act. It prevents temporary help agencies from charging workers for resumé writing and interview preparation. It ensures temporary workers have some information they need about assignments, especially pay schedules and job descriptions. It enables temporary employees to have termination and severance pay rights that align with the rights of permanent employees.

1720

When offering a work assignment with a client, temporary work agencies will have to provide the legal operating or business name of the client; client contact information, including address, telephone number and at least one contact name; the hourly or other wages or commission and benefits associated with each assignment; the hours of work for the assignment; a description of the work to be performed; the pay period and/or pay date established by the temporary help agency.

That's as it stands. You'll notice it doesn't say that the temporary help agency has to say where the work is located.

The temporary agency workers and their employers are covered by the following legislation: the Employment Standards Act, Ontario Human Rights Code, Occupational Health and Safety Act, Workplace Safety and Insurance Act, Employment Insurance Act, and Labour Relations Act. You'd think that would be enough.

Our position is that although we support Bill 139, the Employment Standards Amendment Act (Temporary Help Agencies), we feel that the following amendments would strengthen the rights of these most vulnerable workers, and prevent the perception that the Ontario government allows and condones discriminatory practices against workers.

The Ontario Human Rights Code states:

“Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin,

citizenship, creed, sex, sexual orientation, age, record of offences....”

The key here is that “Every person has a right to equal treatment with respect to employment.” It doesn't say in the Human Rights Code that if you work for a temporary help agency, you're excluded from these rights. It includes everyone.

What needs to be improved in Bill 139:

Home health care agency workers: Due to the Ontario government's removal of the “elect to work” exemption for public holiday pay, which occurred on January 2, 2009, health care workers employed by agencies under contract with the community care access centres are now paid for public holidays, either in lieu time or pay at time and a half.

For some reason, community care access centres have been given an exemption on providing rights on termination and severance, allowing discrimination against professionals, personal care and homemakers who work for them by denying access to termination and severance benefits for three years, to 2012. This exemption should be removed.

As it stands, Bill 139 gives the temporary help agency industry six months to comply with termination and severance requirements once the bill is passed. The home health care industry should have the same six-month implementation date as temporary help agencies.

Regarding information provided to workers: As I mentioned earlier, there are a couple of things missing there. The information provided to a worker about an assignment originates from the temporary help agency, which obtains this information from the client company, and is the only information a worker receives. The information required under Bill 139 is an improvement but does not go far enough.

In order for agency workers to clearly understand the nature of the assignment offered and organize their working lives, they need to be given the following information: the company name; company contact information; the location of work, so that they can plan how to get there and how long it will take; the rate of pay; the pay period; overtime hours and the rate of pay for overtime; hours of work; start and end date of an assignment, so they can plan where they want to go next; and a general description of work.

This information should also be dated and signed by both the temporary help agency and client company representatives.

A worker should also receive a pay slip showing the name of the worker, the pay period, hours worked and rate of pay, overtime hours worked and rate of pay, gross pay, net pay, vacation pay, employment insurance deductions, Canada pension plan deductions and tax deductions.

There should also be a transparent process for revising the terms and conditions of employment with worker and agency involvement.

You may think it's surprising to hear that a pay slip such as the one I've described is not issued.

Regarding barriers to permanent jobs, a company should not be charged for hiring a worker from a temporary help agency during the first six months of an assignment. Surely, the purpose of taking temporary work is in the hope of being hired permanently. Charging a fee for hiring such a worker would only serve as a deterrent to the client company. Agencies are paid for the services of providing labour to client companies in the fees charged for each hour worked. We should not be erecting any barriers to permanent jobs for temporary help workers.

Bill 139 will prevent temporary help agencies from charging fees for registering with the agency, getting work assignments or any other services for temporary assignments, and will allow temporary help workers to file claims at the Ministry of Labour to gain redress for illegal fees that have been charged by the agency.

The Acting Chair (Mr. Joe Dickson): You have 30 seconds, Ms. Pennington-Drabble. Thank you.

Ms. Norma Pennington-Drabble: Interestingly enough, the Association of Canadian Search, Employment and Staffing Services' code of ethics states, regarding charging workers for services, "We will derive income only from clients and make no direct or indirect charges to candidates or employees unless specified by a licence." And pertaining to barriers to employment, "We will not restrict the right of a candidate or employee to accept employment of their choice."

The Acting Chair (Mr. Joe Dickson): Thank you very much for your presentation today.

ASSOCIATION OF PROFESSIONAL COMPUTER CONSULTANTS

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Association of Professional Computer Consultants. Welcome, sir. You have 10 minutes.

Mr. Frank McCrea: Thank you. Good afternoon, ladies and gentlemen. I'm speaking today on behalf of the Association of Professional Computer Consultants. We are an association of approximately 1,000 computer consultants who make our living by working on contract, and this legislation directly applies to our livelihood. I want to thank the committee for the opportunity to make our thoughts known. I believe it's important to note that this is our first opportunity to do so.

In brief, I'm engaged in the staffing industry; I've been engaged for quite a long time and give freely of my time in support of that industry. A recurring theme in my presentation today will be that the staffing industry is the oil of the Canadian economy, and I have outlined some of the reasons why that is so: just-in-time labour, optimum allocation of scarce resources, points of entry for new Canadians and new workers, and other points, as noted on page 3 of my submission.

Labour is fast emerging as Canada's most valuable renewable resource, and I've noted some of the reasons, beginning on page 4. I cannot overstate the importance of that role. As the US raises its barriers and Canada

welcomes the global community, high-tech labour has somewhere to go now, and the emerging trend is that it's coming here from India. One factor is our dynamic staffing model.

A common goal of the private and public sector is to facilitate the growth of the economy. We should be working together toward that goal to create jobs and economic prosperity, not to frustrate it and not to reduce job opportunities. It is predicted that the IT sector in Ontario will need between 59,000 and 84,000 new positions over the next five years, and I'm here today because I fear that the elements of the proposed legislation will function as grit to the oil which the staffing industry provides.

While I have sympathy for the individuals who are victimized, I should point out that there's a low barrier of entry to this industry. Virtually anyone could enter it, and in this day of online communities and websites, anyone with creativity could make themselves look larger than they really are.

My comments are in three parts: conversion, continuance of employment and applicant profiling.

On the topic of conversion, it is my understanding that the provision is being proposed with the goal of removing an obstacle based on the assumption that it will make it easier for a person to switch from working under contract to secure full-time employment. This assumption is false. Has it been considered that the fee might just be a convenient excuse for the company not to hire the person? Remove this excuse and they'll just find another, such as, "I don't want to hire your person because the agency won't supply my people." The excuse works both ways, with our members commonly hiding behind the fee when they don't want to work for the client.

Contract staffing is simply the application of the lease vs. buy decision to labour. The analogy is consistent and the same issues apply. There are a lot of factors which contribute to a reason why a person chooses one option over the other, just as there are a lot of reasons why some people lease their car as opposed to buying their car.

Figure 1 of our submission presents the parties to a contract engagement. It shows the contractor, the agency and the client. The Employment Standards Act applies to the relationship between the employee and the individual. Using the ESA to micromanage contract revisions that would apply to an agreement between two corporations is improper. It would make Ontario the only jurisdiction in the world to do so, and this is not a good point of differentiation. There's always the element of risk in these relationships. If an agency was the supplier to Nortel: the employees were paid; the agency lost money.

1730

There's a fundamental need for anti-conversion clauses in contracts. No one can predict all the scenarios, so I'll just give one. The contractor is an employee of the staffing firm. After six months, in the absence of such a clause restricting conversion, the client sees the financial benefit in hiring the contractor directly as an employee and paying some form of bonus to the employee. The

systems integrator or staffing agency is left out in the cold with no opportunity to recoup all their investment in standby charges and training. How many times might this happen before the SI stops investing in training people?

Costs: Figure 2 differentiates the activities associated with contract versus full-time placement, and it highlights a number of aspects of that differentiation. Contracts are capital-intensive and have a lot of burdens and risks, which consumes the margin, so the profits are low, as other people have said earlier. Our contracts are not short-term, typically. The potential negative financial impact is large. We're dealing with large corporations, and protection of our contracts is needed. Agencies, we have to say, need profits so they can get the jobs for us and our members. The profits from contracting are presented in Figure 3. Once you allow for the cost to service the contract, the margins, even before commissions, have a level of 10%. It goes down from there.

One of our concerns is that agencies might find different ways to restructure their services. Perhaps they will bid projects. Once they have done the hard work of defining their project and completing it, they can then shop them offshore. So jobs that used to be here will go away. It's very common. In the United States, \$790 billion of business is outsourced annually. An escapable result will be the exact experience of the US loss of jobs.

When I read the legislation, I saw no reference to rate thresholds or terms which excluded my sector in the market, and until I see otherwise, I will share the concern that the concerns of the temps will apply to our sector as well. You will be removing an obstacle to employment, yes, but you will be removing an opportunity to be employed and jobs will be lost.

Continuance of employment: It was explained to me that the goal to make matters clearer removes some of the complexities. Having read the legislation, I doubt that's the case. Currently, a part-time worker needs to work both the day before and the day after a stat holiday in order to qualify for pay. The proposed condition will put part-time workers on one model and agencies on another, the difference being an additional cost to the agency. The incentive is, therefore, to have the client hire individuals directly and not use an agency. Clearly, someone at the CCAC became aware of this provision and told the government that if it was implemented for health care workers and their agencies, the entire business model for care in the home that the Ministry of Health is implementing would crash.

I've been told that, in addition to health care workers, government bodies will be exempted from the legislation as well. Government jobs are quite attractive, so I have to ask why the government would retain these alleged barriers. Can someone perhaps explain why temporary government workers will not have the same rights and opportunities as temporary workers outside? Surely the Ministry of Labour would not want these workers to be disadvantaged, if such is the case.

The bill is silent on an emerging and troubling practice. US firms commonly request details which enable a

reviewer to identify an individual's nationality or country of birth. Our association suggests that the legislation be adjusted to prevent client companies or their agents from requesting these data elements, which can be used to identify an individual by nationality or gender. The individual and/or his representative must be able to satisfy the fact that they are able to work in Canada, which is to say that they have the proper documentation and approvals. It's proposed that the items listed in our submission be made prohibited from being used.

Labour is a major cost component of any corporation, and any increase to cost translates directly to reductions in volume that will hurt the contractor community. Just as investors flee risk, I fear that employers and agencies will flee risk. If they do so, my membership will suffer, job opportunities will be lost and rates will increase. I can simply caution everyone to be aware of unintended consequences. I suggest that once you think of the staffing industry in the view of oil for Canadian business, optimizing access is the view to have.

I ask this committee to hearken back to the Harris government's extension of the retail sales tax to contract services in 1997, and the lessons learned by that misstep. One simple phrase, that a computer program was tangible personal property, raised costs and applied the retail sales tax and resulted in thousands of jobs leaving the province. It was a good intention with unintended consequences, which linger to this day.

The recommendations are included in the written form of my submission.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. McCrea. We have exactly 52 seconds. Is there anyone here who can ask a question and get an answer within 52 seconds? Mr. Delaney.

Mr. Bob Delaney: Having done some IT work myself in my time, the benchmark that we always look at is about 10 days of professional development a year. How do you handle professional development in the business that you serve and who pays for it?

Mr. Frank McCrea: Individuals are responsible for their own professional development. They're paid a reasonably significant premium over salaried employees, and that funds that cost.

Mr. Bob Delaney: There's a shortage of about 50,000 such people in Canada right now. This should be a seller's market. Are you worried about the ongoing viability of your business?

Mr. Frank McCrea: No; we're importing people from Brazil.

Mr. Bob Delaney: Okay. Thanks very much.

The Acting Chair (Mr. Joe Dickson): I actually have 10 seconds. I would then go to—

Interjection.

The Acting Chair (Mr. Joe Dickson): Are you sure? I thought I had the Tories—if Mr. Miller passes, we'll go to Ms. DiNovo.

Mr. Norm Miller: If I can sum up, then, to do with the conversion—you're in favour of having fees. You don't see a problem with the fees that are going to be, I

guess, outlawed in this bill; you have a problem with the continuance-of-employment provisions and you're asking questions about the CCAC exemption, saying, "Well, the government figured out it was bad for them, so that's why they put that exemption in." Is that correct?

Mr. Frank McCrea: There's a correlation between margin and conversion. Some companies prefer to have a low margin, i.e., have the agency reduce their fees as low as possible, and then they don't care about the conversion—with the conversion fee high at the end; other companies are prepared to pay a higher margin and have no conversion fee. It's all part of a give-and-take process between corporations.

Mr. Norm Miller: So it should be left to—you don't have a problem with that variability?

Mr. Frank McCrea: I see no benefit—

The Acting Chair (Mr. Joe Dickson): Thank you. I'm going to have to call the presentation time. I appreciate that very much. I'll start with you in the next round, Ms. DiNovo.

BRIAN VAN TILBORG

The Acting Chair (Mr. Joe Dickson): The next presenter is Brian Van Tilborg. Welcome, sir.

Mr. Brian Van Tilborg: My name is Brian Van Tilborg. I come from Brantford. I appreciate you putting on this committee so that I can get my say. The people of Brantford, many of them, want me to send a message to you, and that is, not to let what happened in my community spread to all the other communities in this province. Brantford's been inundated with temporary employment agencies to a level that you probably cannot imagine. I could only wish that the stories of help that these agencies have been portraying here were true.

The people who can help those workers are you, right here, and this bill is just one small step in doing that. This is not going to put one single agency out of business, no matter how much they say that. The reason is, they can tell you what their margins are here, but these presidents, vice-presidents, some of their financial people who have come in here and presented, their employees who speak as if they were general workers who have been out in the workforce but actually work for their agency—that's how they found their employment, and they do payroll—they seem to lose track of what their gross is.

I know what's happening in my community. During a period of expansive growth before this downturn, we saw agencies popping up. You know what? We had agencies for a long time, but there were two, three, four. We're not a very big place; we're very small. A plant of mine closed down in 2007 and at that time, there were 10 agencies. A month later, there were 11; two months later, there were 13. Before the year was done, there were 20, and the year after that, we were up to 26.

I have an adjustment centre. I do try to help people. It's hard work to get that work done effectively, and it's near impossible sometimes, because what those people have told you, when they say 99%—because it's not even

70% in our area; it's like, 90%. You can check that out. That's on government websites every day, if you want to go on Service Canada.

1740

The gatekeepers to those jobs are the employment agencies. When I heard those figures of 15% and 20% as the floating workforce—maybe at one time, but the companies that hire today, in a place that has 1,000, when you have 700 full-time permanent and definite temporary employees working for many different agencies under one roof, that's what you guys are looking at for the future of your labour market.

I want you to seriously consider that, because I'll talk about this company without naming it, but I will give you this little tidbit. In my industry, a forklift driver probably either went out to pasture or was a hustler, because we were in just-in-time production, but it was the lowest-paying job in the place. In other words, if you had seniority, it's what you wanted to get on the forklift job, and if you wanted to move and move the goods, you got on the forklift job. That was the lowest-paying job and that was probably about \$19 an hour.

A new company came into town and it was, "This is going to be great. They're providing lots of jobs and that job is going to pay \$17 an hour." Well, I'll tell you what: If you were at the bottom, and your job was forklift driver and you were making \$18 or \$19 an hour, and you lost your job and within weeks you could go to another place for \$17, you would have done well. Our just-in-time forklift drivers worked very well with this new established company, and that's a good wage.

So we had this dialogue for about three months, and we knew—they put out an ad and it made big news—they were hiring 100 more people. But when you advertise like that, because you're making headlines in the paper, agencies from across the province scan what's going on in the newsreels, and of course, we had one come all the way from Toronto to visit us. This company came down, met with the company that was hiring the forklift drivers, and they cut a deal. When they were talking with the company, they asked them, "Where have you been getting your forklift drivers?" They didn't know that they were coming from my old company. What they knew was that they had the retraining certificate. See, at an adjustment centre we try to get people's most current forklift licence updated, so it's good for three years. So they said this place here—being the smart people that they are, because they knew that that company liked the forklift drivers that came from this training centre—contacted the training centre. The training centre said, "Oh, we know these guys. They're from this plant and they've got an adjustment centre." So they come up—and remember, this is all in one day, those 100 jobs that I'm looking forward to to put more people to work—and when I've got a relationship with that company, they show up: "Hi, we are XYZ employment agency from Toronto and we've got 100 jobs for you." I said, "Great." "They're \$11 an hour and it's for forklift driving. Have you ever heard of this company?" Of

course they knew that I knew the company. And so there's the cut. That's not bad.

I don't need that kind of help. The government doesn't need that kind of help. We're paying for that training in one way or another. Now, they had done their dog-and-pony show, and we just saw a bunch of those today, and you probably saw some last week, about all the good things. That dog-and-pony show involved them showing pictures of a computer and a forklift and a warehouse and saying they do all this training, but at the end of the day, all this agency did was read a headline, run down, cut a deal, get a contract, find out where we were—who are already supplying the labour, because that's our job; we want people to work—and they took their cut. That's one example.

With the number of companies doing this—and we are seeing 70% full-time temp—it's not good. It's putting people in vulnerable positions—very vulnerable. In my city it has not been unusual for somebody to work for an agency—many of the good ones that have presented here—for 11 years; 11 years, full-time, waiting to get the carrot. Unfortunately, sometimes those very same agencies hire. When a position comes up, you don't get rid of the person who's working 11 years and get them on with a company so that they can make \$17 an hour. They're making you good money; they show up to work every day. You make sure that person doesn't get hired and the next day somebody starts on that same job right beside you again. They're making \$17 on day number one and the agency gets a cut for that. Good, eh? Just do some of the math at 700 people: There's a production line that pays \$14.40. So you have two different jobs: one at \$17, the other at \$14.40. At the end of the day, the pay rate is \$10.40. With 700 people, 40 hours a week, 52 weeks a year, that's one company. I'm dealing with 180 agencies in Brantford. Just because 20 of them have offices doesn't mean that I have to just deal with those. They're from all over.

We have skilled trades that will no longer come to Brantford, look at Brantford or check the job postings in Brantford because it says "Agency, agency, agency." Brantford has become a wasteland. We can't let that happen elsewhere.

This is minor stuff. That somebody's been working five years in an agency, certainly they can get severance if they're let go, if the company closes its doors—and that is happening. No agency that I know, none of them, can save a company from its demise or foreign, offshore decision-making. They have no say in that. They're only providing labour.

The Acting Chair (Mr. Joe Dickson): You have 30 seconds, sir.

Mr. Brian Van Tilborg: I'll cut it there. I'd like any questions.

The Acting Chair (Mr. Joe Dickson): I'll go to Ms. DiNovo first. I think we'll just have time for one question. Go ahead, please.

Ms. Cheri DiNovo: Thank you very much for that moving testimony. As we know, about 40% of Ontario's

workforce is now in precarious contract, part-time or temporary employment, so it's a huge number. You're absolutely right about that. Certainly, in some manufacturing plants, they're working cheek-by-jowl with people who are making considerably more than them. So I just want to thank you for your deputation, and better luck in the future.

The Acting Chair (Mr. Joe Dickson): Thank you for your presentation, sir, and thank you for coming.

DURHAM REGION LABOUR COUNCIL

The Acting Chair (Mr. Joe Dickson): Our next presenter is the Durham Region Labour Council. Welcome, Jim. It is Jim?

Mr. Jim Freeman: Yes, it is.

The Acting Chair (Mr. Joe Dickson): How are you, sir?

Mr. Jim Freeman: I'm good, thank you very much.

I'm Jim Freeman. I'm the president of the Durham Region Labour Council. We represent about 40,000 workers who are affiliated with about 52 different local unions in Durham region. Our workers work in many different occupations, from daycare workers to auto-workers, from nurses to power workers. On behalf of our members, the Durham Region Labour Council is pleased for this opportunity to share some of our thoughts and ideas with the standing committee here today.

We feel that for far too long, temp agency workers in Ontario have been treated like second-class citizens when it comes to the Employment Standards Act. The Durham Region Labour Council believes Bill 139 is an important first step in bringing some fairness and equity to temp agency workers, but we think amendments are needed to better protect people who are temporarily employed through these agencies.

We believe the Ontario government has a duty to strengthen and pass this legislation to help workers who are amongst the most vulnerable in the province. The government should not enable employers to impose inferior conditions on workers simply because of the form of employment or employment status. The Durham Region Labour Council believes it is more important now than ever to update the Employment Standards Act to address unfair conditions for temporary workers.

The DRLC believes that the economic crisis, coupled with the growth of staffing and employment agencies, has worsened the situation for people doing precarious work—work that is low-paid, insecure and not well protected by minimum standards. Low-wage workers, especially women, immigrant and racialized workers, are increasingly working in temporary, contract and part-time work and juggling two and three jobs without employment benefits or workplace protections. We think that as the recession continues and more people fall off the EI rolls and are forced to turn to these agencies for work, that the time is now for changes that will go a long way toward bringing some fairness to these workers. So we're just going to touch on a few quick ones here.

Improving employment standards: Agencies will be required to provide information on employment standards rights and enforcement procedures to all current and future employees. Where the Ministry of Labour has translated this information, it must be provided in the first language of the agency's employees. We believe this will help empower these workers as to their rights and procedures and we are pleased the government has included this.

The Durham Region Labour Council believes that protecting temp agency workers through improving employment standards and knowledge of those standards is very important, but that it is just one part of it. Enforcement is the other very important part of it. Workers need to be able to enforce their rights while they are on the job. With no protection in the workplace, workers could be denied minimum standards such as overtime pay. When violations of minimum standards occur, workers must absorb the lost earnings until they can find a new job, or be fired. That is why any change must include improving employment standards enforcement.

1750

We think this bill goes a long way toward protecting workers against reprisals by extending responsibilities. Both the client company and temp agency will be responsible for any reprisals against workers who try to enforce their employment standards rights. Temp workers are often left struggling to assert their rights in the three-sided employment relationship that is temporary work. This change will allow workers who are penalized for trying to enforce their rights to go after the company when it is responsible for reprisals in employment standards violations. The Ministry of Labour will also be able to go after the client company with third party orders when the temp agency refuses to pay wages. We fully support these much-needed changes.

Termination and severance: For far too long agencies and other employers used to deny termination pay or notice and severance pay to workers by calling workers "elect to work." The government plans to remove the "elect to work" loophole on termination and severance for most workers. Although this may be good news for temp agency workers, unfortunately Bill 139 would only allow temp agency workers to get termination and severance if they are terminated by the agency or go 35 weeks in a row without any work assignment. This means temp workers would have to wait longer than other workers who get termination and severance if they have been without work for 13 out of 20 weeks. Unlike other workers, temp agency workers would have no right to refuse an assignment during those 35 weeks except in the case where the assignment offered is much different than the work they usually do. The Durham Region Labour Council thinks the best way to fix these problems is to have temp agency work follow the same rules as other employers and employees for termination and severance rights. There should be no more treating these workers as second-class citizens.

No barriers to permanent jobs: The bill will stop any fees or penalty for workers who are hired by the company where they are assigned. Workers can't be required to sign a contract to stop them from seeking a permanent job with the company. We feel this is a step forward for workers.

Unfortunately, the Durham Region Labour Council believes that allowing an agency to charge a company for hiring an individual is wrong, even if it is limited to six months. We think this not only erects a barrier to permanent employment but also sets a bad precedent for restraining workers' freedom to move from one job to another. Agencies already get paid for the service of providing labour to client companies in the fee they charge for each hour worked. We think it would be extremely unfair to employers to allow agencies to charge a fee in the first six months to compensate for future loss of earnings because a worker has been hired by another company. Other countries in Europe and the European Union that regulate temp agency work do not allow agencies to erect any barriers to permanent jobs.

Fairness for home health care agency workers: At long last health care workers employed by agencies under contract with the community care access centres, the CCACs—

The Acting Chair (Mr. Joe Dickson): Excuse me, Mr Freeman. I'm sorry to be doing this to you, but because the bell is being called for a vote, you have less than two minutes. You're going to miss one minute off the end. Keep going, sir; we're going to go as long as we can.

Mr. Jim Freeman: Okay—can now get public holiday pay like other workers. This is because of the Ontario government's removal of the "elect to work" exemption for public holiday pay that took effect January 2, 2009. We believe that getting access to public holiday pay is a step forward in bringing fairness to these workers, and we thank the government for that change.

Unfortunately, these same workers will be denied access to termination and severance benefits for three years. The government is considering a regulation that would keep the "elect to work" exemption for termination and severance for professionals, personal care and home care workers working for companies under contract with CCACs until 2012. After this, these workers would be entitled. The Durham Region Labour Council is opposed to any such a regulation.

I'll just skip right to the last page for you then.

Client companies must sign on: The bill only requires the agency to provide information about the assignment. We think this leaves workers stuck between the client company and the agency when there is a disagreement about the terms of assignment. It's the client company that determines the hours of work, the work duties and the term of assignment, and so it is our position it should sign and date the information form provided to workers. We think this will—

The Acting Chair (Mr. Joe Dickson): Thirty seconds, sir.

Mr. Jim Freeman: All right.

In conclusion, the Durham Region Labour Council is pleased that the government is acting to bring in long-overdue changes to how temp agency workers are treated. There are many parts of this bill that we fully support, but like any piece of legislation, we think there are some parts of the bill that should and need to be improved to truly help temp agency workers. After many years of temp agency workers fighting for fairness, these are important changes that could make a big difference in the lives of temp agency workers.

Again we thank the government for bringing this bill forward.

The Acting Chair (Mr. Joe Dickson): Thank you very much, Mr. Freeman. Thank you for your understanding, sir. We didn't call the bell, and all parties are represented here.

The committee is adjourned until Wednesday, April 8, 2009, at 1 p.m. for clause-by-clause consideration of Bill 139 in this location. Thank you.

The committee adjourned at 1755.

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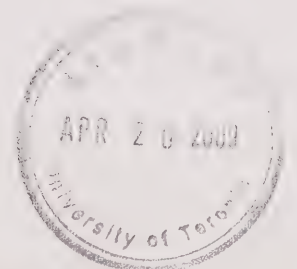
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Standing Committee on the Legislative Assembly

Employment Standards
Amendment Act
(Temporary Help Agencies), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 modifiant la Loi
sur les normes d'emploi
(agences de placement
temporaire)



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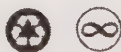
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 8 April 2009

Mercredi 8 avril 2009

*The committee met at 1303 in room 151.*EMPLOYMENT STANDARDS
AMENDMENT ACT
(TEMPORARY HELP AGENCIES), 2009
LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(AGENCES DE PLACEMENT
TEMPORAIRE)

Consideration of Bill 139, An Act to amend the Employment Standards Act, 2000 in relation to temporary help agencies and certain other matters / Projet de loi 139, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les agences de placement temporaire et certaines autres questions.

The Chair (Mr. Bas Balkissoon): I call the meeting to order of the Standing Committee on the Legislative Assembly. We're here to deal with clause-by-clause of Bill 139, the Employment Standards Amendment Act.

The first motion I have—

Interjection.

The Chair (Mr. Bas Balkissoon): I've got it; sorry. Are there any opening remarks? Mr. Miller.

Mr. Norm Miller: Yes, I just had a question. We just received four of the amendments this morning, about 10 o'clock. It's my understanding that the deadline for submission of amendments was 4 o'clock on Monday. So I'm wondering why—and some are quite lengthy government amendments—we received them just at 10 o'clock this morning, when obviously having them further in advance to be able to analyze them would be much more beneficial.

The Chair (Mr. Bas Balkissoon): Thank you, Mr. Miller. My understanding is that the deadlines are set by the committee and it's an administrative deadline; it's not a hard deadline. The information was provided to all parties as soon as it was available. I understand your concern, that you'd like to analyze it. We'll do our best.

Mr. Norm Miller: Well, then, we'll hope that the government will be able to explain these amendments in detail as we go through this process.

The Chair (Mr. Bas Balkissoon): I'm sure they will. Ms. DiNovo?

Ms. Cheri DiNovo: Yes. I was going to make that point as well. Thanks to Mr. Miller for making it. If it's

an administrative deadline and not a firm deadline, then you could expect that the Progressive Conservatives and the New Democratic Party will probably abide by the firm deadline and not the administrative deadline too. That's all—equal playing field.

But what I want to do first of all, before we even begin the proceedings, is to thank the staff from the Ministry of Labour. I want to thank in particular Workers' Action, who are here today, for all their incredible work on this bill, and my executive assistant, Charles Smith, for his work.

I want to say that we're undoing now—about 15 years later, we're going back to what we had in 1995 and we're undoing some of the more egregious aspects of the Harris legacy in terms of labour, work, in this province. So I want to say that, and I want to thank the people who are primarily responsible for doing the work. Thank you.

The Chair (Mr. Bas Balkissoon): Any members of the government with any comments? Can I move on?

Mr. Vic Dhillon: No comment.

The Chair (Mr. Bas Balkissoon): Okay. The first motion is an NDP motion.

Interjection.

The Chair (Mr. Bas Balkissoon): My apologies.

Section 1 of the bill: I have no amendments in front of me. Shall section 1 carry? Carried.

Section 2 of the bill: There are no submitted amendments. Shall section 2 carry? Carried.

Section 3: I have NDP motion number 1. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 74.2 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be struck out.

The Chair (Mr. Bas Balkissoon): Any comments?

Ms. Cheri DiNovo: Just by way of explanation, Mr. Chair, this is the part that deals with home care workers. We think that home care workers should be included in this bill.

The Chair (Mr. Bas Balkissoon): Any comments? The government?

Mr. Vic Dhillon: CCACs are public sector service providers and not temporary help agency clients, as is understood in the bill, so we'll be opposing this motion.

The Chair (Mr. Bas Balkissoon): Okay. Mr. Miller?

Mr. Norm Miller: It's interesting that the government is making an exclusion for services that are funded and provided for by the government, that it's good enough for the private sector but not good enough for the govern-

ment. But I think it will be our position that we'll be voting against this, and we'll ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Mr. Miller has requested a recorded vote.

Ayes

DiNovo.

Nays

Bailey, Delaney, Dhillon, Dickson, Flynn, Miller, Sergio.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

I have motion number 2 from the PC Party, and—yes?

Mr. Norm Miller: Actually, Mr Chair, we'd like to withdraw that. It was our intention to extend the exemption that applies to CCAC workers to all companies that deal with home care, whether it be in your home or not. Our amendment didn't come out quite the way we wanted it to, so we'd like to withdraw that amendment, please.

The Chair (Mr. Bas Balkissoon): Okay. Thank you very much.

On section 3, I have another motion, motion number 3, NDP. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 74.3 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding "For the purposes of this act," at the beginning.

The Chair (Mr. Bas Balkissoon): Any comments? Government?

Mr. Vic Dhillon: Chair, we'll be voting against this one as well, because this change would serve no purpose. As for the Employment Standards Act, 2000, it already applies to temp help agency workers.

1310

The Chair (Mr. Bas Balkissoon): The Conservative Party, any comments?

NDP motion number 3: All in favour? Against? The motion is defeated.

The next motion I have is government motion 3.1. Mr. Dhillon.

Mr. Vic Dhillon: I move that section 74.4 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Same

"(1.1) Where an assignment employee is assigned by a temporary help agency to perform work for a client of the agency, the assignment begins on the first day on which the assignment employee performs work under the assignment and ends at the end of the term of the assignment or when the assignment is ended by the agency, the employee or the client."

This amendment would serve to clarify when a work assignment begins and ends.

The Chair (Mr. Bas Balkissoon): Comments from the official opposition?

Mr. Robert Bailey: Could the parliamentary assistant explain a little bit more what the impact would be on the temporary agencies?

Mr. Vic Dhillon: It's very simple. This amendment makes it clear as to when a work assignment would begin and when it would end.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo, any comments?

Ms. Cheri DiNovo: I'm a little concerned that the language has softened from the original. Again, we just had a chance to look at this amendment; we have not had a chance to speak to a lawyer about it. We prefer the original, so I'll be voting against it.

The Chair (Mr. Bas Balkissoon): Okay. Government motion 3.1: All in favour? Against? The motion carries.

The next one is a PC motion, page 4. Mr. Bailey.

Mr. Robert Bailey: I move that clause 74.4(2)(b) of the act, as set out in section 3 of the bill, be struck out.

The purpose of this amendment would be to eliminate the continuance-of-employment clause. This was recommended by ACSESS. As it currently is written, the bill will hamper a temporary staffing agency's ability to do business in Ontario and will dramatically increase their fees. Temporary staffing will be important when this economy turns around. If we are putting barriers in place that prevent temporary agencies and their employees from functioning well, we will be in effect slowing down this economic recovery.

This amendment is necessary, in our opinion, for the smooth functioning of temporary agencies and the improvement of the Ontario economy.

The Chair (Mr. Bas Balkissoon): Questions or comments? Ms. DiNovo.

Ms. Cheri DiNovo: Absolutely not. This is one of the hubs of this bill, and we will be voting against this Tory motion.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon.

Mr. Vic Dhillon: This section just sets out the existing law. Unless an agency employee has been terminated or quits, he or she is an employee of an agency. We'll be voting against this motion.

The Chair (Mr. Bas Balkissoon): I'll put the vote to PC motion number 4.

Mr. Norm Miller: Recorded vote.

Ayes

Bailey, Miller.

Nays

Delaney, Dhillon, Dickson, DiNovo, Flynn, Sergio.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

The next one is the PC motion on page 5. Mr. Bailey.

Mr. Robert Bailey: I move that part XVIII.1 of the act, as set out in section 3 of the bill, be amended by adding the following section:

“Termination and severance of employment relationship

“74.4.1 Nothing in section 74.3 or 74.4 prevents a temporary help agency from terminating or severing the employment of an assignment employee.”

The effect of our amendment would be to offer assurances that temporary staffing agencies can terminate or sever an employee. This offers some protection in the case of firms concerned about the notice of a continuance of employment.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Ms. Cheri DiNovo: I don't think it's necessary. I think we already have that covered in the Employment Standards Act.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon.

Mr. Vic Dhillon: There's nothing in Bill 139 that would prevent a temp agency from terminating or severing the employment of an assignment employee. I will be voting against this.

The Chair (Mr. Bas Balkissoon): Okay. I'll take the vote on the PC motion on page 5. All in favour? Against? The motion is defeated.

The next motion is a government motion on page 5.1.

Mr. Vic Dhillon: I move that subsection 74.6(1) of the act, as set out in section 3 of the bill, be amended by striking out “in writing” in the portion before paragraph 1.

Assignments can sometimes become available so quickly that there's no time to provide written information before they start. It's reasonable for an agency to provide such information orally at the time that an assignment is offered. That's our explanation for that amendment.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Ms. Cheri DiNovo: We couldn't disagree more. The temporary agency employee writes down the assignment by hearing it over the phone—usually they're writing—from the employer. They can certainly take the few seconds required to write it for the employee as well. We'll definitely vote against it.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: It's certainly a concern that I heard from employment agencies that jobs come up at the last moment. Having to have written information would be an impediment to them being able to carry out their business in an efficient way, so we'll certainly support this amendment.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the government motion on page 5.1. All in favour? Against? The motion carries.

Mr. Vic Dhillon: Chair, if I can just have consent for 30 seconds to consult with my assistant?

The Chair (Mr. Bas Balkissoon): I have a request for a short break of 30 seconds. All in favour? We'll give him 30 seconds.

Interjection.

The Chair (Mr. Bas Balkissoon): We'll recess for two minutes.

The committee recessed from 1317 to 1318.

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order again. We'll move to the NDP motion on page 6.

Ms. Cheri DiNovo: I'd like to make a friendly amendment to my own motion, if I might. I move that subsection 74.6(1) of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding the following:

“The estimated term of the assignment, if the information is available at the time of the offer.”

Mr. Vic Dhillon: Because of the amendment, Chair, we will be in support of this NDP motion.

Mr. Norm Miller: Did you say you were in support of it?

Mr. Vic Dhillon: Yes.

The Chair (Mr. Bas Balkissoon): Does everyone want a copy of the amendment?

Mr. Norm Miller: Yes, please.

The Chair (Mr. Bas Balkissoon): Okay. Just give us a couple of seconds.

Ms. DiNovo, can I get you to read the motion as you want to move it, completely, for the record?

Ms. Cheri DiNovo: You certainly can, Mr. Chair.

I move that subsection 74.6(1) of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding the following:

“The estimated term of the assignment, if the information is available at the time of the offer.”

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Miller?

Mr. Norm Miller: This sounds like a reasonable proposition, so I think we might have unanimous—we might all be agreeable.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the NDP motion on page 6. All in favour? Carried.

The next motion is government motion 6—

Mr. Vic Dhillon: We'll be withdrawing that.

The Chair (Mr. Bas Balkissoon): You're going to withdraw that one? Okay.

The next motion I have is the NDP motion on page 7. Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 74.6 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by adding the following subsection:

“Certification

“(1.1) The temporary help agency shall provide the information required by subsection (1) using a form that contains a certification, signed and dated by the client or an authorized employee of the client, confirming the accuracy of the information.”

Again, this is just for the further safety of the employee, to leave a written record.

The Chair (Mr. Bas Balkissoon): Questions and comments? The government: Mr. Dhillon.

Mr. Vic Dhillon: Chair, we'll be voting against this, because we feel that this would create unnecessary red tape.

The Chair (Mr. Bas Balkissoon): The opposition: Mr. Miller.

Mr. Norm Miller: This province has way too much red tape at this point, and the government seems to do a good job on its own of creating more, so we'll be voting against this.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the NDP motion on page 7. All in favour? Against? The motion is defeated.

The next motion is a government motion on page 7.1.

Mr. Vic Dhillon: I move that section 74.6 of the act, as set out in section 3 of the bill, be amended by adding the following subsection:

"Same

"(1.1) If information required by subsection (1) is provided orally to the assignment employee, the temporary help agency shall also provide the information to the assignment employee in writing, as soon as possible after offering the work assignment."

Our explanation is that this ensures that verbal information when the assignment was offered is followed up in writing as soon as possible afterwards.

The Chair (Mr. Bas Balkissoon): Questions and comments?

Ms. Cheri DiNovo: If we can't get the best of all possible worlds, we'll settle for one slightly better. Yes, I'm going to support it.

The Chair (Mr. Bas Balkissoon): Comments from the PCs?

Mr. Norm Miller: We will support it.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the government motion on page 7.1. All in favour? Carried.

The next motion I have is an NDP motion on page 8.

Ms. Cheri DiNovo: I move that section 74.8 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be amended by,

(a) striking out "except as permitted by subsection (2)" at the end of paragraph 8 of subsection (1); and

(b) striking out subsections (2) and (3).

For a couple of reasons here: First of all, I think this is open for a charter challenge. I don't think the province has a legal leg to stand on to put up any barrier for employment, and certainly I think this is beyond provincial jurisdiction.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Vic Dhillon: We'll be opposing this motion. The six-month time period is a reasonable compromise. It balances the need of the temporary help agencies to be fairly compensated, the desire of the employees to find stable employment, and the client needs with respect to being able to hire experienced staff. So we'll be voting against it.

The Chair (Mr. Bas Balkissoon): Mr Bailey.

Mr. Robert Bailey: We'll also be voting against it. We believe that the temporary agencies need some form of remuneration for the work they do in helping to train,

advertise, retain the paperwork etc. So we'll be opposing it.

The Chair (Mr. Bas Balkissoon): I'll take the vote on the NDP motion on page 8. All in favour? Against? The motion is defeated.

The next motion is a PC motion on page 9.

Mr. Robert Bailey: I move that paragraph 8 of subsection 74.8(1) of the act, as set out in section 3 of the bill, be struck out.

The purpose of our amendment, if it's passed, would be to allow agencies to continue to charge conversion fees to clients after the first six months. We heard from a number of agencies that if conversion fees are eliminated entirely, they would not be able to conduct business in an orderly manner. There's also concern that the Employment Standards Act is the wrong legislative vehicle to dictate business-to-business relationships.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Vic Dhillon: This amendment would mean that temporary help agency assignment employees would face unfair barriers to obtaining stable employment. For that reason, we'll be voting against this amendment.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Again, what I said for our motion holds here. I'll be voting against it because we feel that we already have a barrier to employment built into this act that shouldn't be there and that would be subject to a charter challenge. I certainly suggest that employers and employees that deal with temporary agencies take up that challenge and refuse to pay the fee and refuse to have the fee charged.

The Chair (Mr. Bas Balkissoon): I call the vote on the PC motion on page 9. All in favour? Against? That motion is defeated.

The next motion is a PC motion on page 10.

1330

Mr. Norm Miller: Seeing as our previous motion was defeated, this one is redundant, so we'll withdraw.

The Chair (Mr. Bas Balkissoon): You'll withdraw? Okay, withdrawn.

The next motion is government motion 10.1. Mr. Delaney.

Mr. Bob Delaney: I move that section 74.10 of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"Public holiday pay

"74.10(1) For the purposes of determining entitlement to public holiday pay under subsection 29(2.1), an assignment employee of a temporary help agency is on a layoff on a public holiday if the public holiday falls on a day on which the employee is not assigned by the agency to perform work for a client of the agency.

"Same

"(2) For the purposes of subsection 29(2.2), the period of a temporary layoff of an assignment employee by a temporary help agency shall be determined in accordance with section 56 as modified by section 74.11 for the purposes of part XV."

The Chair (Mr. Bas Balkissoon): Questions and comments?

Ms. Cheri DiNovo: Yes, I wonder if we could have some explanation from perhaps legal staff on this. It was a late amendment and I think that would be in order.

The Chair (Mr. Bas Balkissoon): Legislative counsel, can we get—oh, you mean ministry staff? Do we have anybody who can come forward and provide some explanation?

Ms. Janice Chung: This motion is going to clarify that the applications of subsection—

The Chair (Mr. Bas Balkissoon): Can you introduce yourself for the record, please?

Ms. Janice Chung: It's Janice Chung, counsel at the Ministry of Labour, legal services branch.

This motion would clarify the application of subsections 29(2.1) and (2.2), the public holiday pay entitlements for an assignment employee, and would ensure that an assignment employee that is not assigned to perform work on the day the public holiday falls is treated the same as any employee on a maternity or paternity leave of absence or on a layoff; that is, they will receive public holiday pay for the day.

Ms. Cheri DiNovo: Thank you.

The Chair (Mr. Bas Balkissoon): Questions or comments? Mr. Bailey, you have a question?

Mr. Robert Bailey: Can you explain that again? If they are—

Ms. Janice Chung: On a paternity or maternity leave of absence or on a layoff, an employee generally receives public holiday pay for a day in which a public holiday falls, if they are on a pat leave, a mat leave or on layoff. This amendment would ensure that an assignment employee who is not assigned to perform work on a day a public holiday falls would receive public holiday pay.

The Chair (Mr. Bas Balkissoon): Questions or comments? Anyone else? Shall I take the vote? I'll take the vote on page 10.1.

Mr. Norm Miller: Recorded vote.

Ayes

Delaney, Dhillon, Dickson, DiNovo, Flynn, Sergio.

Nays

Bailey, Miller.

The Chair (Mr. Bas Balkissoon): The motion carries. Next is NDP motion 11.

Ms. Cheri DiNovo: I move that section 74.11 of the Employment Standards Act, 2000, as set out in section 3 of the bill, be struck out.

The Chair (Mr. Bas Balkissoon): Questions or comments?

Mr. Vic Dhillon: The government has an upcoming motion that responds to this issue raised by this motion. However, the government motion recognizes that certain rules are needed to recognize that temporary help agency

employees may have periods of non-assignment, so we'll be voting against this motion.

The Chair (Mr. Bas Balkissoon): Questions or comments? Anyone else? I'll take the vote on NDP motion 11. All in favour? Against? The motion is defeated.

The next motion is government motion 11.1.

Mr. Bob Delaney: I move that section 74.11 of the act, as set out in section 3 of the bill, be struck out and the following substituted:

"Termination and severance

"74.11 For the purposes of the application of part XV to temporary help agencies and their assignment employees, the following modifications apply:

"1. A temporary help agency lays off an assignment employee for a week if the employee is not assigned by the agency to perform work for a client of the agency during the week.

"2. For the purposes of paragraphs 3 and 10, 'excluded week' means a week during which, for one or more days, the assignment employee is not able to work, is not available for work, refuses an offer by the agency that would not constitute constructive dismissal of the employee by the agency, is subject to a disciplinary suspension or is not assigned to perform work for a client of the agency because of a strike or lockout occurring at the agency.

"3. An excluded week shall not be counted as part of the 13 or 35 weeks referred to in subsection 56(2) but shall be counted as part of the 20 or 52 consecutive week periods referred to in subsection 56(2).

"4. Subsections 56(3) to (3.6) do not apply to temporary help agencies and their assignment employees.

"5. A temporary help agency shall, in addition to meeting the posting requirements set out in clause 58(2)(b) and subsection 58(5), provide the information required to be provided to the director under clause 58(2)(a) to each of its assignment employees on the first day of the notice period or as soon after that as is reasonably possible.

"6. Clauses 60(1)(a) and (b) and subsection 60(2) do not apply to temporary help agencies and their assignment employees.

"7. A temporary help agency that gives notice of termination to an assignment employee in accordance with section 57 or 58 shall, during each week of the notice period, pay the assignment employee the wages he or she is entitled to receive, which in no case shall be less than,

"i. in the case of any termination other than under clause 56(1)(c), the total amount of the wages earned by the assignment employee for work performed for clients of the agency during the 12-week period ending on the last day on which the employee performed work for a client of the agency, divided by 12, or

"ii. in the case of a termination under clause 56(1)(c), the total amount of wages earned by the assignment employee for work performed for clients of the agency during the 12-week period immediately preceding the deemed termination date, divided by 12.

"8. The lump sum that an assignment employee is entitled to be paid under clause 61(1)(a) is a lump sum

equal to the amount the employee would have been entitled to receive under paragraph 7 had notice been given in accordance with section 57 or 58.

"9. Subsection 61(1.1) does not apply to temporary help agencies and their assignment employees.

"10. An excluded week shall not be counted as part of the 35 weeks referred to in clause 63(1)(c) but shall be counted as part of the 52 consecutive week period referred to in clause 63(1)(c).

"11. Subsections 63(2) to (2.4) do not apply to temporary help agencies and their assignment employees.

"12. Subsections 65(1), (5) and (6) do not apply to temporary help agencies and their assignment employees.

"13. If a temporary help agency severs the employment of an assignment employee under clause 63(1)(a), (b), (d) or (e), severance pay shall be calculated by,

"i. dividing the total amount of wages earned by the assignment employee for work performed for clients of the agency during the 12-week period ending on the last day on which the employee performed work for a client of the agency by 12, and

"ii. multiplying the result obtained under subparagraph i by the lesser of 26 and the sum of,

"A. the number of years of employment the employee has completed, and

"B. the number of months of employment not included in sub-subparagraph A that the employee has completed, divided by 12.

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"14. If a temporary help agency severs the employment of an assignment employee under clause 63(1)(c), severance pay shall be calculated by,

"i. dividing the total amount of wages earned by the assignment employee for work performed for clients of the agency during the 12-week period immediately preceding the first day of the layoff by 12, and

"ii. multiplying the result obtained under subparagraph i by the lesser of 26 and the sum of,

"A. the number of years of employment the employee has completed, and

"B. the number of months of employment not included in sub-subparagraph A that the employee has completed, divided by 12."

The Chair (Mr. Bas Balkissoon): Questions or comments? Ms. DiNovo?

Ms. Cheri DiNovo: Again, this is an instance where I think we would benefit from the advice of counsel in terms of the meaning of this.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: I believe this is one of the amendments we received at 10 this morning, just a short, little amendment. At first glance, it looks like every temporary help agency in the province is going to be stimulating employment because they're all going to have to hire a lawyer to have permanently on staff and an accountant so that when the labour police—the provincial government—show up, they aren't charged, because they're bound to be in violation of something with the nice,

complicated new rules that you're putting in place with this legislation.

Certainly it would be good to get some explanation as to exactly what this is going to do.

Mr. Robert Bailey: I'd like to comment. I think it's patently unfair to get something like this at the last minute without having an opportunity to go through it and understand what it really means. I challenge anyone here, even probably the legal people, that they actually understand what the heck this means. Back home we'd have a word for this, but I wouldn't use it here. But anyway.

The Chair (Mr. Bas Balkissoon): Ms. Chung?

Ms. Janice Chung: The amendment ensures that the same triggers and windows for calculating a termination and severance apply to an assignment employee; that is, 13 weeks in 20 and 35 weeks in 52. It also clarifies for the purposes of temp help agencies and their assignment employees when a layoff occurs in that sector and it recognizes the differences in that sector. It modifies the formula also to be used to calculate the termination and severance pay for those assignment employees but otherwise maintains the same general legislative provisions of part XV to an assignment employee.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Yes, if I might ask you a couple of questions. Bottom line, we're concerned that assignment employees to temporary agencies have the same termination and severance rights as other employees. Will this guarantee that that happens?

Ms. Janice Chung: It will ensure that the same triggers and windows will apply to assignment employees.

Ms. Cheri DiNovo: So in other words, my motion being shot down to eliminate this section—this will accomplish the same move but with tighter legal constraints? What was the meaning for all of—

Ms. Janice Chung: It will clarify when a layoff actually occurs in the temp help agency sector—the language in paragraph 1, particularly.

Ms. Cheri DiNovo: So this is not going to cost temporary agency employees anything in terms of rights?

Ms. Janice Chung: It will ensure that they have the same triggers and windows as—

Ms. Cheri DiNovo: Right. Okay, thank you.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: On point 6, it says, "Clauses 60(1)(a) and (b) and subsection 60(2) do not apply to temporary help agencies." Can you explain what clauses 60(1)(a) and (b) and 60(2) are, please?

Ms. Janice Chung: Clauses 60(1)(a) and (b) of the act provide that, "During a notice period under section 57 or 58, the employer,

"(a) shall not reduce the employee's wage rate or alter any other term or condition of employment;

"(b) shall in each week pay the employee the wages the employee is entitled to receive, which in no case shall be less than his or her regular wages for a regular work week...."

Subsection 60(2) provides that where there is no regular work week, "For the purposes of clause (1)(b)," that

being during the notice period under subsection 57 or 58, the employer shall in each week pay the employee the wages the employee is entitled to receive, which in no case shall be less than his or her regular wages for a regular work week. "If the employee does not have a regular work week or if the employee is paid on a basis other than time, the employer shall pay the employee an amount equal to the average amount of regular wages earned by the employee per week for the weeks in which the employee worked in the period of 12 weeks immediately preceding the day on which notice was given." Those clauses would not apply to temporary help agencies or their assignment employees.

The Chair (Mr. Bas Balkissoon): Mr. Bailey?

Mr. Robert Bailey: Did you review these with any of the temporary agencies to see if these could actually be applied, having input from the temporary agencies?

Ms. Janice Chung: That is not the role of legal counsel.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: I second the concern that we just received this very recently and didn't have time. We're trusting the government in this—that this will protect the employees. We should move on.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: As you can appreciate, the legal staff is here to answer any questions that the opposition parties need clarification on. I know it's quite lengthy, but I'm sure Ms. Chung will be more than willing to answer any further questions that we may have.

The Chair (Mr. Bas Balkissoon): I don't think Mr. Bailey had another. Did you have another question?

Mr. Robert Bailey: Yes. I'd like to know what's behind the 12-week number, the calculation that they use in paragraphs 13 and 14. Can you explain a little more about that? They keep talking about 12 weeks. Math was never my strong suit. Subparagraphs 13(i) and (ii) and 14(i) and (ii) talk about the 12.

Ms. Janice Chung: Paragraphs 13 and 14 just provide an alternate calculation for the purposes of temp help agencies in calculating their severance pay.

Mr. Robert Bailey: An alternate calculation as opposed to—you said an "alternate" calculation. Did I hear you right?

Ms. Janice Chung: Currently in part XV, there is a way of calculating it set out in section 65.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: One of the concerns we had about the excluded week provision was that temporary employees who are sick or disabled still qualify. Is that what this is intended to provide?

Ms. Janice Chung: The concept of an excluded week is currently in part XV. You will see it in—it's very small print—subsection 56(3).

Ms. Cheri DiNovo: Okay. Thank you.

The Chair (Mr. Bas Balkissoon): Shall I take the vote? Mr. Dhillon?

Mr. Vic Dhillon: A couple of points on the record with respect to our support of this motion: This amend-

ment is being proposed so that a layoff for an assignment employee would resemble that of other employees, and the amended section does set out some differences in order to reflect the fact that employees in this sector may have periods of non-assignment. I just wanted to get that on the record.

The Chair (Mr. Bas Balkissoon): Comments? Mr. Bailey.

Mr. Robert Bailey: Yes, I'd like to ask a question. I understand why legal counsel can't answer—because of being non-partisan and all that—but to the government: Did the government, in your opinion, Mr. Dhillon, consult with any of the temporary agencies with this new amendment to see if it was even practical or able to be implemented by them?

Mr. Vic Dhillon: First of all, I think we had detailed deputations from the temp agency sector. The consensus was drawn based on what was presented to us. I think we all heard what they had to say and I'm sure we can all agree that there's never, ever a perfect solution. We felt that this was the best outcome that we could come to.

Mr. Robert Bailey: Just to clarify, are you inferring that they would be in support of this? If we polled the temporary agencies today, they would be in support of this?

Interjection.

Mr. Robert Bailey: That's just fine. I'm just trying to understand. It's quite complicated and quite legalese. I'm just trying to understand—

Interjection.

1350

The Chair (Mr. Bas Balkissoon): I think he said that you can't please everybody, but they tried their best.

I call the vote on the government motion on page 11.1.

Interjection: A recorded vote, please.

Ayes

Delaney, Dhillon, Dickson, DiNovo, Flynn, Sergio.

Nays

Bailey, Miller.

The Chair (Mr. Bas Balkissoon): The motion carries. That's the end of section 3. Shall section 3, as amended, carry? Carried.

We'll move to section 3.1. I have an NDP motion on page 12.

Ms. Cheri DiNovo: Yes, this is a bit of a lengthy one, the preamble to which would be simply that we recognize that there's a loophole here because we called it "temporary employment agencies." We're a little concerned that agencies would simply change their name to get around the provisions of this new bill. That's the motivation behind this amendment.

I move that the bill be amended by adding the following section:

"3.1 The act is amended by adding the following part:

“Part XVIII.2

“Employment agencies

“Employment agencies

“74.18(1) In this section,

““employment agency” means a person who, for a fee, recruits or offers to recruit employees for employers.

“No charge for hiring or providing information

“(2) An employment agency shall not request, charge or receive, directly or indirectly, from a person seeking employment, a payment for,

“(a) employing or obtaining employment for the person seeking employment; or

“(b) providing information about employers seeking employees.

“Exception

“(3) A person does not contravene subsection (2) by requesting, charging or receiving payment for any form of advertisement from the person who placed the advertisement.

“Recovery of payment

“(4) A payment received by a person in contravention of subsection (2) is deemed to be wages owing and this act applies to the recovery of the payment.

“No fees to other persons

“(5) An employment agency shall not make a payment, directly or indirectly, to a person for obtaining or assisting in obtaining employment for someone else.

“Exception

“(6) A person does not contravene subsection (5) by paying for any form of advertisement placed by that person.

“Employment agencies to be licensed

“(7) A person shall not operate an employment agency unless the person is licensed under this act.

“Exception

“(8) Subsection (7) does not apply to a person operating an employment agency for the sole purpose of hiring employees exclusively for one employer.

“Regulations

“(9) The Lieutenant Governor in Council may make regulations governing the licensing of employment agencies.”

You can see that the reason for this is simply to extend the meaning of this bill to agencies that may not call themselves part of a temporary help agency. It is in line with some BC regulations on this topic as well.

The Chair (Mr. Bas Balkissoon): I will have to rule this motion out of order because it's beyond the scope of the bill that is in front of us. Bill 139 deals with temporary employment agencies, so I will rule that that is out of order.

Ms. Cheri DiNovo: Just stay tuned for the employment standards amendments, as tabled by my office, that will include this. Thank you.

The Chair (Mr. Bas Balkissoon): Okay. We'll move to section 4. Are there any comments? Shall section 4 carry? Carried.

We'll move to section 5. Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Shall section 14 carry? Carried.

Shall section 15 carry? Carried.

Shall section 16 carry? Carried.

Shall section 17 carry? Carried.

Shall section 18 carry? Carried.

Shall section 19 carry? Carried.

Shall section 20 carry? Carried.

Shall section 21 carry? Carried.

Shall section 22 carry? Carried.

Shall section 23 carry? Carried.

Shall section 24 carry? Carried.

Shall section 25 carry? Carried.

Shall section 26 carry? Carried.

Shall section 27 carry? Carried.

Shall section 28 carry? Carried.

Shall section 29 carry? Carried.

Shall section 30 carry? Carried.

Shall section 31 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 139, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

Agreed.

Anything else? Mr. Miller.

Mr. Norm Miller: I would just like to once again protest the fact that we received the significant amendments so late, just before the start of this committee meeting. In fact, for the last government amendment, which was several pages long, even the key stakeholders like ACSESS, when shown it, could not figure out whether they were in favour of or against the amendment. So I would just simply say that in the interest of better legislation, obviously, having more time to look at the amendments is preferred. Unless you're a labour legal expert, to be asked to know exactly what's going to happen with some of these long, complicated amendments is virtually impossible. I just want to record that protest from the official opposition.

The Chair (Mr. Bas Balkissoon): Thank you very much. Duly noted. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much, Chair. I just want to get on the record again that we do have ministry staff here, and the legal staff as well, to explain, as they have explained some of the questions that were brought forward by the opposition parties. It doesn't appear to me that there were any questions that were unresolved or unanswered, so I just wanted to get that on the record and thank everybody, and thank you, Chair.

The Chair (Mr. Bas Balkissoon): Thank you all very much. The committee is adjourned.

The committee adjourned at 1358.

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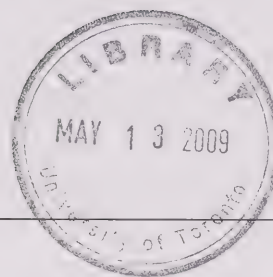
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Assemblée législative de l'Ontario

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Official Report of Debates (Hansard)

Wednesday 22 April 2009

Journal des débats (Hansard)

Mercredi 22 avril 2009

Standing Committee on the Legislative Assembly

Employment Standards
Amendment Act
(Organ Donor Leave), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 modifiant la Loi
sur les normes d'emploi
(congé pour don d'organe)

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 22 April 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 22 avril 2009

The committee met at 1302 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order. Report of the subcommittee on committee business: Mr. Delaney?

Mr. Bob Delaney: Your subcommittee met on Wednesday, April 8, 2009, and Monday, April 20, 2009, to consider the method of proceeding on Bill 154, An Act to amend the Employment Standards Act, 2000 in respect of organ donor leave, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 154 on the Ontario parliamentary channel and the committee's website.

(2) That the clerk of the committee also send information regarding the public hearings on Bill 154 to Canada NewsWire.

(3) That interested parties who wish to be considered to make an oral presentation on the bill contact the clerk of the committee by 3 p.m. on Monday, April 20, 2009.

(4) That the committee meet for public hearings on Wednesday, April 22, 2009, during its regularly scheduled meeting time and subject to witness demand.

(5) That the length of time for all witness presentations be 15 minutes.

(6) That the deadline for written submissions on the bill be 12 p.m. on Wednesday, April 22, 2009.

(7) That the administrative deadline for filing amendments be 3 p.m. on Monday, April 27, 2009.

(8) That if no public hearings are required, the committee meet one day for clause-by-clause consideration of the bill on Wednesday, April 22, 2009.

(9) That if public hearings are required, the committee meet one day for clause-by-clause consideration of the bill on Wednesday, April 29, 2009.

(10) That the research officer provide the committee with background information prior to public hearings on the bill and that the research officer provide the committee with a summary of witness testimony prior to clause-by-clause consideration of the bill.

(11) That the clerk of the committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any

preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Bas Balkissoon): Thank you. Shall the report of the subcommittee be adopted? Agreed? Agreed.

EMPLOYMENT STANDARDS
AMENDMENT ACT

(ORGAN DONOR LEAVE), 2009

LOI DE 2009 MODIFIANT LA LOI
SUR LES NORMES D'EMPLOI
(CONGÉ POUR DON D'ORGANE)

Consideration of Bill 154, An Act to amend the Employment Standards Act, 2000 in respect of organ donor leave / Projet de loi 154, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne le congé pour don d'organe.

TRILLIUM GIFT OF LIFE NETWORK

The Chair (Mr. Bas Balkissoon): Now we will move to deputations. Our first deputant is Mr. Frank Markel, president and chief executive officer, Trillium Gift of Life Network. You have 15 minutes. Please state your name for the record, and if there's any time left at the end of your deputation, there will be questions from everyone.

Dr. Frank Markel: My name is Frank Markel. I'm president and chief executive officer of Trillium Gift of Life Network, Ontario's organ donation organization. I don't know if it's coincidence, but you are holding your hearings in the midst of National Organ and Tissue Donor Awareness Week, so in the package I've brought I include a green ribbon or a trillium button. You can make your choice, but I hope you wear one to indicate your support for organ and tissue donation.

I have a presentation that's included in the package. If you could turn to it, I'll take you through it very briefly.

The second slide on that presentation invites you inside the world of organ and tissue donation. The young man whose picture you see there is actually the hero of our new website, RecycleMe.org, which Mr. Caplan unveiled on Monday. It's a website dedicated to youth, but it has a great deal of information about organ and tissue donation and I invite you to have a look at it.

I'm here to talk specifically about Bill 154, which would provide unpaid leave for living donors, unpaid leave from their employment, so I thought I would begin by showing you some statistics about living donation.

The two major organs which can be transplanted from a living donor are the kidney, which is the most common, and then secondarily the liver. The third slide in my presentation shows you time trends going back to 2002 in terms of both kidney transplants from living donors and liver transplants. What you see is that in Ontario, in that time span, we have managed to increase substantially the number of living donors, but to my eye, in the last few years, the increases have not been maintained. We have held steady, but the pattern of increase that we saw at the beginning of the decade has not continued. I think that's one reason why this bill deserves your consideration.

Living donation shares that record with deceased donation. At the bottom, slide 4 shows you the record for deceased donation in the province and the waiting list. We have made increases in the number of deceased donors in the last three years. For many years, Ontario ran at about 150 deceased donors a year. In the last three years, we've gotten as high as 200 and, in the most recent year, 175. Our waiting list of those awaiting transplant has diminished somewhat from 2004, as you can see with the red line, but it remains at almost 1,700 people.

I won't take you through in any detail the next slide. It shows you detailed statistics on transplantation in Ontario by fiscal year. But you should realize how important living donation is to transplantation. Over 40% of kidney transplants come from living donors, and about a third of liver transplants come from living donors. In particular, you'll hear later this afternoon from Dr. Levy from the University Health Network. They have one of the most highly regarded living liver donor programs in the world, and people come from all over the world to learn from them. But we still need more donors, as the slide I showed you shows.

I've shown you a picture of a world in which it would be easy to get all the donors you needed. You see the advertisement for Kidney Depot. Of course, you know it's illegal to buy and sell organs in Ontario. This, again, is from our youth campaign announced on Monday. These humorous posters are now in buses across the province—38 different cities—trying to reach youth to get to this website, RecycleMe.org. But that isn't the solution, and that's why this legislation is important.

Of the almost 1,700 people waiting for transplant, you can see on slide 7 the breakdown by organ. The majority are waiting for a kidney—over 1,100 people waiting for a kidney—and then second, over 300 people waiting for a liver. These, as I said, are the two organs for which it is possible to be a living donor, so I think these statistics show you quite clearly the importance of living donation in terms of reducing the wait list.

In August 2007, Premier McGuinty announced at the Trillium offices the Premier's initiative on organ donation, following a report from the citizens' panel. That Premier's initiative has a number of elements to it, just

one of which is Bill 154, which would provide unpaid leave for living donors.

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In my next two slides, I want to talk to you about why this bill is important. As I've suggested to you, our earlier record of strong increases in living donation hasn't been matched in the last three years provincially, so we do need help in increasing living donation.

I'll make the point in a moment that this particular initiative, Bill 154, fits very nicely with other elements of the Premier's initiative, particularly the program for reimbursement of expenses for living organ donors. That program, which we call PRELOD, reimburses living donors for a number of expenses, including lost income. When you think about that for a moment and you see the linkage between Bill 154, which guarantees leave of absence, along with the PRELOD program, which provides income supplement, I think those two work very nicely together.

Let me give you two other reasons why I think this bill is so important. Today, absent the bill, an individual who has decided to be a living donor essentially has to ask a favour of his or her employer, has to ask for leave. I don't think anyone should have to go to their employer to ask for leave if they're being generous enough to donate an organ. After all, you wouldn't expect women to ask for leave to have a baby.

This is my view, and I'm not a politician, but I also think it's very important to the public of Ontario to see that there is a consensus of support for organ and tissue donation as expressed by government in a variety of ways. I think this is yet another way in which the government can make clear its support for organ and tissue donation.

Now let me speak, in the next two slides, to some of the details of the PRELOD program so you can understand the loss-of-income supplement that it provides. It provides that loss-of-income support to those individuals who are actually living donors and are off work to recover from surgery. The donor must experience a financial loss because of their absence. The time off work to attend assessment visits is not part of the reimbursement, and this program is not applicable to out-of-country donors; it's applicable only for donors from within Canada for a recipient in Ontario.

The second slide shows you the amounts. We pay up to \$3,200, \$400 a week or 55% of the individual's net earnings, whichever is less. We pay that, depending on the advice of the surgeon, for either eight weeks or sometimes up to 14 weeks. First of all, the individual must exhaust other sources of income, and they're listed here. It's a deductive process that results in our arriving at the sum. My main point is that while the bill provides for unpaid leave, it is complemented by the PRELOD program, which does provide income supplement.

Finally, I'll mention to you some of the other aspects of the Premier's initiative, all designed to build support for organ donation. We are working very closely with religious leaders in the province to ask them to show

their support, and you can see some of the groups we're working with: the Toronto Board of Rabbis, the Catholic Archdiocese of Toronto, the council of grand chiefs and the Ontario Council of Imams. For all of these groups, we either have or will have shortly brochures written by the religious leaders or the faith leaders themselves in their own language, indicating their faith's support for organ and tissue donation. The one in your package is from Grand Chief Stan Beardy of the Nishnawbe-Aski Nation. We've given you the one in English, but we have it in Cree and Ojibwa as well to make it accessible.

Finally, again as part of the Premier's initiative, we're trying to reach the youth of our province. One tactic we're using is to provide an educational program in the grade 11 curriculum. It's called "One Life ... Many Gifts." There's a website related to it. We're now teaching it in 20 school districts across the province, and on Monday, Minister Caplan announced continued funding, so we can get to every school district.

I'll close, then, by reminding you, on the very last page of this new website, RecycleMe.org, for young people—we do maintain our ongoing website for the general public, giftoflife.on.ca, and invite you to visit either of those.

That concludes my presentation, Mr. Chair. I'm happy to answer any questions.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about one minute each. Mr. Miller.

Mr. Norm Miller: Thank you for coming in today. I just have a minute, so I'll be quick. This will make, hopefully, a small difference in encouraging more people to donate organs. Certainly that's my goal and I'm sure your goal.

Frank Klees had a private member's bill initiative a couple of years ago that would have required people to choose when they're applying for a health card or driver's licence—I think it would be "yes," "no," or "don't know." You'd have to make a choice, anyway, so that everybody would have to make a conscious decision about organ donation. Do you support an initiative like that?

Dr. Frank Markel: I support an initiative that has something in common with it but differs in an important way, and actually the government, in December, initiated it exactly the way I would like to see it done, which is to register only people who want to be donors. We now have what we call an affirmative registry in Ontario. If you're not interested in being a donor, that's your own business; you tell your family, and we respect that. But it goes back to my wish that the government show its support for the cause of donation. I think the government should be in the business of recording the names of people who want to be donors. I like the idea of registration, but I think it should be an affirmative registry only.

Mr. Norm Miller: I agree with that. It's just I'd like to see everybody consciously make that decision so that we get many more donors.

Dr. Frank Markel: Right.

The Chair (Mr. Bas Balkissoon): Thank you. We'll now move to the NDP. Mr. Kormos?

Mr. Peter Kormos: Thank you kindly, sir. You know you and I continue to disagree about affirmative versus—I say we live in a regime of presumed denial. But that's not the issue today. We're going to support the legislation. It's going to pass before the summer break; I can almost guarantee that.

In the Legislature I've talked about how Ted Arnott's Legion card, on the back of it, had an organ donor card. I'm not sure whether all Legions do that, but I was awfully impressed. If you could get more partners of those types of groups that have cards—credit card companies could do it; any number of sources.

The other thing is, of course, as you and I talked about, wouldn't it be great if Canadian Tire gave a 2% discount when you presented your organ donor card? That would be a great corporate partner.

But I'm looking at the waiting list here: 1,185 people waiting for kidneys, and livers, 306. All the others would require a dead donor. Could all of those kidneys be living-donor kidneys?

Dr. Frank Markel: In theory, if anonymous donors came forward, for example, in sufficient numbers. There's no reason why anyone needing a kidney could not receive it from a living person, if that's your question.

Mr. Peter Kormos: And you need just one kidney out of the pair and you just need a little piece of liver, huh?

Dr. Frank Markel: A little bit of liver, yes.

Mr. Peter Kormos: I'm not sure how my liver would be, but I suspect one of my kidneys might still work.

But that's interesting, because how, then, do you promote—most of the focus is on dead donors. Do you understand what I'm saying? At least the perception from the public. How do you promote—you and I have talked about this—the concept of giving a kidney as readily as people give blood?

Interjection.

Mr. Peter Kormos: Seriously, without having to worry about whether it's your cousin or your family. We know somebody somewhere—1,100 people need kidneys. I'm 57 years old. Heck, if one of my kidneys is good, I really don't have that many more miles in the total scheme of things. How do you promote that?

Dr. Frank Markel: The short answer is, it is possible to have public awareness campaigns that would encourage people to be living donors. Dr. Levy, who is speaking to you later this afternoon, is someone you should ask this question as well, because he leads the Multi-Organ Transplant Program at UHN. I think public awareness of the possibility of being a living donor has value, and that's something we could consider.

The Chair (Mr. Bas Balkissoon): Thank you very much. On the government side, Mr. Delaney.

Mr. Bob Delaney: As we appear to be running short on time, I just want to thank you very much for having taken the time to come and make your deputation to us,

and I just want to say how much we appreciate your contribution to the bill.

The Chair (Mr. Bas Balkissoon): Thank you, Dr. Markel. Thanks for taking the time to present to us.

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TORONTO GENERAL HOSPITAL MULTI-ORGAN TRANSPLANT PROGRAM

The Chair (Mr. Bas Balkissoon): The next person presenting is Gary Levy, director of the Toronto General Hospital Multi-Organ Transplant Program. You have 15 minutes. Please state your name for the record, and if there's any time left there will be questions.

Dr. Gary Levy: My name is Dr. Gary Levy and I'm the director of the transplant program at the University Health Network. I'm also the director of the newly formed Toronto transplant institute, which encompasses all of the transplant programs here in the greater Toronto area. I'll get to that in a second.

First, I want to thank the committee for the opportunity of presenting to you today. I've given you a hand-out of what I'm going to say and I've also given you a handout of one of the questions, maybe in response: How does one solve the problem of organ donation? We have a symposium which will be going on on Monday, May 4, and the former Secretary of Health of the United States, Tommy Thompson, will be here as our guest. We're more than happy for any of you to meet with Mr. Thompson, who has played a leading role in quadrupling organ donation in the United States and perhaps he can answer the question better than I can.

As I said, I'm the director of Canada's largest transplant program and the newly formed Toronto transplant institute, and our combined programs here in the greater Toronto area perform about 650 to 700 solid organ transplants in both adults and children. Of course, the children's program has made the headlines in the last two weeks, which we're all aware of.

At the UHN, we are the largest of the contributors, with over 400 solid organ transplants, and the breakdown, as Mr. Kormos alluded to, is 140 kidneys, 130 livers, 90 lungs, 25 hearts, 25 pancreases and five intestines. Clearly we're not going to be doing living-related heart transplants—not in my lifetime. At the Hospital for Sick Children we perform approximately 60 solid organ transplants—25 hearts, 25 livers etc.—and at St. Michael's it's a renal transplant initiative.

So transplantation works. It's the most successful treatment for patients who have end-stage organ failure. I'm happy to tell you the one-year survival rates across the board are 95%; five-year, 85%, and there are no alternatives for these people. Although surveys have suggested that most Ontarians are overwhelmingly in favour of organ donation, Ontario's deceased organ donation rates remain among the lowest in North America and Toronto has the distinction of being the lowest in Canada. The only path where we've made inroads, as Mr. Markel has stated, is through living related liver trans-

plantation, and although, clearly, living related transplantation will help us, it won't solve all of the problems. But we're here to support an important bill today.

The low deceased-donor rates in Ontario have had devastating consequences, and I can speak to that because I just came from a clinic. Wait times for transplantation are up to nine years for a kidney and two to three years for a liver, and we don't even list them for a heart because we would cause pandemonium in the community and you might be unsafe here at Queen's Park.

Every day at least one Ontarian dies waiting for a life-saving transplant, and 25% of listed liver and lung transplant recipients die before an organ becomes available. We all know this is a gross underestimate of the real impact of poor donation because we have to restrict access to these programs due to the shortage of organs. Now to help compensate for this dire shortage of deceased organ donors, we and our partner institutions throughout Ontario have established very vibrant kidney, liver and even lung transplant programs. So we actually do living related lung transplants. Today, these procedures account for about 25% to 30% of all transplants performed. They are different than deceased donation. Post-operatively, we must assume the care of the donor, who can expect to stay in hospital for about one week and then requires a period of time to recover from the surgery.

In the case of liver transplantation, which I oversee, within 12 weeks the re-sectioned liver will regenerate and grow back to full size, whereas when you give a kidney you are left with only one kidney. You do not get regeneration of that organ. But without these living-donor programs, many more Ontarians would die. As a matter of fact, when we started the liver program here in Ontario, which is world-famous for its progress, we had 100 deaths of potential liver recipients each year. That has now fallen to 50, but obviously we haven't accomplished what we set out to do.

Potential living donors undergo a rigorous and thorough evaluation which can take up to four weeks of their time, at their expense, to ensure that it is safe to perform donor surgery. Our results have shown that living donors return to normal life function, and our surveys have suggested a strong satisfaction with the donation experience. Yet despite these precautions, living donation carries significant risk of illness, and worldwide there have been at least 50 deaths of donors. We have to keep that in mind when we go forward with this. Thus, our live donor program takes the responsibility of donor care seriously, and we, on behalf of you, take all steps to protect these heroes.

Donors come from all walks of life, ethnicities and gender. Today, I saw people from all different walks who wanted to step forward to help friends, relatives and even anonymous donation, which I'm happy to talk to you about.

I'm here today to strongly support Bill 154, which will provide up to 26 weeks of unpaid leave. Any effort to encourage Ontarians to give the gift of life must be supported.

On behalf of the transplant community throughout Ontario, we applaud all elements of the government and thank you for taking this bold step. I'm happy to answer any questions.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have about two minutes each, and I'll go to the NDP and Mr. Kormos first.

Mr. Peter Kormos: Thank you, Doctor. My assumption is, if I'm a liver donor, I'm going to be back to full form after that 12-week recovery period. It's going to have no ongoing negative impact.

Dr. Gary Levy: We're happy to tell you we can guarantee that because we've now published widely our experience; we have the largest experience worldwide. We've done over 500 living liver donation experiences, and 96% of patients are back at full-time employment. The other 4% chose not to go back. I consider full-time employment, incidentally, as taking care of children and other such things.

Mr. Peter Kormos: But if I give a kidney, how is that going to affect my lifestyle, if you will?

Dr. Gary Levy: The good news is, in general, they return to normal life. Our policy within the province, and we've cleared this within the Ministry of Health, is that we follow all live donors for a period of 10 years to ensure that there is no harm done to these individuals.

Mr. Peter Kormos: What's the downside, besides one kidney?

Dr. Gary Levy: There have been cases—not in Canada—where individuals have gone into renal failure and have required renal transplantation following a donation. We take all steps to ensure that doesn't happen. There have been deaths of donors. In Ontario, there was a death of a living donor. So there are risks to proceeding with living donation.

Mr. Peter Kormos: But the usual surgical risks?

Dr. Gary Levy: Yes. They're largely related to surgery and the complications thereafter; that's correct.

Mr. Peter Kormos: Is the movement one that's designed to generate kidney donation or liver donation as benign an activity as giving blood? I use that example, and I don't know whether it's fair or not.

Dr. Gary Levy: The experience isn't comparable. I don't want anyone to think that giving a kidney or a liver—and incidentally, if you want to know how much of your liver you're giving: In an adult, you're giving one half to two thirds of your liver; in a child, it's just a minor piece of the left lobe. But it's a serious operation we shouldn't take lightly. It's not the same as giving a bag of blood.

Mr. Peter Kormos: Will there ever be a shift in public opinion such that, when I know that there's somebody that needs a piece of my liver, I will simply come forward? The usual circumstance now is family or people who are intimates in one way or another, as I understand it as a layperson.

Dr. Gary Levy: Right now, at the Toronto General Hospital, we have about 80 people in workup for live donor liver transplant. Of that, approximately 15 are

anonymous. They're people who called the program and are willing to step forward to help anyone in Ontario, and were, in working with the Trillium Gift of Life Network, ensured that it goes to the neediest person.

Mr. Peter Kormos: That's what I was getting at.

The Chair (Mr. Bas Balkissoon): Thank you. We'll now move to the government side. Mr. Dhillon.

Interjection.

The Chair (Mr. Bas Balkissoon): Oh, Mrs. Albanese.

Mr. Vic Dhillon: Mrs. Albanese has a question and then I'll—

Mrs. Laura Albanese: Yes, first of all, I wanted to have a clarification. You spoke about 50 deaths worldwide. Is that within one year? What's the time frame?

Dr. Gary Levy: We do approximately, in liver—the question is related to living liver transplantation?

Mrs. Laura Albanese: Yes.

Dr. Gary Levy: We do approximately 50 live donor liver transplants per year, and as Mr. Markel said, at the moment, that number over the past several years has plateaued. Part of the reason is that—I wish I could tell you that all Ontarians are healthy. I could go around the room here and tell you which people I would accept as live donors; I'm not going to do that today. But Ontarians are not all healthy.

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One of the good pieces of news from this is that we actually impact the health of Ontarians through this program. We actually encourage them to live better lives through this. Many of them have their BMIs, their body mass index, go back to normal, and we predict that they'll actually do better than the average Ontarian.

Mrs. Laura Albanese: To go back to what Mr. Kormos was asking before: Typically, after you have, let's say, donated a kidney, and I guess that would be different from donating a liver, what types of changes in your lifestyle do you have to make? Do you go on living, let's say, the way you did before? Or do you have to take some dietary precautions, some other medical precautions, for the rest of your life, after you've been a donor?

Dr. Gary Levy: We encourage people to go back to living a normal life but a healthy life. So, I would argue, many people in Ontario are not living healthy lives, and we try to convince them to live healthy lives. If they do that, we believe that it's safe to proceed with living donation. If they go back to living unhealthy lives, I would argue that it probably isn't safe to do this.

Mrs. Laura Albanese: And that would be the case for a kidney donation and also for a liver?

Dr. Gary Levy: Liver is a little bit different because of the fact that it regenerates, and within 12 weeks, you have a full-sized liver. So as long as we keep a very close watch during those 12 weeks—but that doesn't mean that we encourage people not to live healthy lives.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll now move to the PC Party. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. You mentioned that we have the lowest deceased dona-

tion rate in North America here in Ontario, and I'm pleased to see you have a May 4 meeting to address that issue. But if you were going to list some things we could do to change that scenario, to increase the number of people donating, both the living and deceased donation rate, what would be the top items that you would recommend?

Dr. Gary Levy: You may or may not be aware that the minister has asked me to chair an expert panel on waiting times and access to transplantation in Ontario. I've struck a committee. Mr. Markel sits on that committee. We have experts from around the province—business leaders, health leaders, people from all walks of life. We have the dean of the northern medical school sitting on this committee.

I'm not at liberty to share the report, needless to say, because it hasn't been prepared and released, but I promise all of you that within about four weeks of the completion of the symposium, we will be submitting to the government a series of recommendations on how we believe we can improve the system here in Ontario. We hope that you'll all support it strongly.

Mr. Norm Miller: Thank you. I look forward to that. Bob, do you have any questions?

Mr. Robert Bailey: If I have a minute.

The Chair (Mr. Bas Balkissoon): You have half a minute. Go ahead.

Mr. Robert Bailey: Okay. I'm sure the answer to this is—we probably already know it. If you already had a pre-existing health condition, would that necessarily rule you out as a living donor? I suppose it would depend on what the condition was.

Dr. Gary Levy: You've partially answered the question. The decision is not a totally democratic decision. I've had people who have insisted they will be donors. We make the final decision, and it's based on the safety of the donor. So if we believe that your pre-existing health issue will not impact your health, we'll proceed. If I and my colleagues believe it will, you cannot proceed.

Mr. Robert Bailey: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be with us.

CITIZENS PANEL ON INCREASING ORGAN DONATIONS

The Chair (Mr. Bas Balkissoon): The next presenter is Ted Boadway, chair of the Citizens Panel on Increasing Organ Donations.

Dr. Ted Boadway: Thank you, Mr. Chair. My name is Dr. Ted Boadway. I was privileged to be the chair of the Citizens Panel on Increasing Organ Donations. I'm comfortable to speak on behalf of my fellow panel members. They were Alvin Curling, Peter Desbarats, Reverend Brent Hawkes, Gisèle Lalonde, and Senator Joan Neiman. They're all famous enough that I'm sure you know who they are. And for my sins, I was asked to be chair by Mr. Smitherman.

We submitted our report in March 2007, so that's been available in the public domain for a long time.

When we were doing our work, we held dozens of public forums right around the province and we had a great deal of survey work done for us as well. It also kind of took over our private lives, in that because people knew we were on this panel, every social situation, family situation and business situation got turned into a discussion on organ donation, and actually, we didn't mind that because it all turned out to be very valuable input. It was a very rewarding thing to do, because what we discovered is that many people in this province had thought deeply about this subject and were intensely interested in it and wanted to express their wisdom—and it was wise. Living donation was always a point of particularly intense, focused discussion. When people thought about this, it was really intense, and I think part of the reason was that they put themselves in the shoes of someone considering being a living donor and they wondered whether they themselves would be willing to do that. Most people thought that if the attraction of affinity was close enough, if it was a relative or a loved one—but when you started talking about anonymous donors, people really began to think that perhaps they wouldn't do it. They wondered if they would even do it if it were a relative. So people really had to look inside, and I think that's one reason they were so interested in talking about it. They held people who had been living donors almost in awe when they discussed it. They wondered how people got to that spot and how it had affected them and what was going through their minds. They wanted to hear about it. Sometimes we had a living donor there who could talk about it; most often, we didn't. We also heard from people who wanted to be living donors, or who had considered it deeply and perhaps were in the process or had decided they wouldn't be.

When we talked to folks everywhere across the province, they had it figured out. They knew that giving a solid organ was a major procedure that should not be undertaken lightly. They knew that there would be a significant convalescence for that person and that there would be a period of being unwell. They knew that it would be a life-changing event for the person who gave, just as it would be for the person who received. They would very quickly get to, not only are there emotional and physical costs to the person, but there are real financial costs, and what are those costs and how does that work out? They had a bunch of questions. Or maybe they thought it would cost X, Y and Z, because they had thought it out. Then they would often get to the point of asking, "Costs aside, what would happen if I lost my job?" Here they've done this wonderful thing that's so altruistic, and they lose their job. Boy, what kind of a situation would that be for a person?

So we found that they were very interested in this topic and wanted very quickly to switch to what we could do about it. After they'd articulated it, they asked, "What can we do about this?" What they said universally is,

"We should support these folks." When we were doing our panel work, it was just like all other things when you're dealing with people—people aren't unanimous. This is something on which there was unanimity. Absolutely 100% of people said, "We should support these folks." It really surprised us to find that degree of unanimity on anything, and there it was. We couldn't find nays to that proposition. In this situation, the PRELOD is already in. That was one of the things we recommended; that is, income and expense supplementation for people. No one is going to get rich on it, folks, if you ever look at the terms, but at least they won't be out of pocket so badly when they come to do it. And the other essential part of looking after these folks is making sure that when they come back, they have a job to go to. It's fundamental to our personal economy to make sure that we don't have too many expenses we can't recover if we go and do this; even more fundamental is being able to return to work. If we don't have that, our family's economy is truly torched.

This bill is about job security. It is what we recommended at the time. We're very pleased that the government of Ontario has decided to undertake this. We're glad you're giving it serious consideration, and we look forward to its implementation.

Living organ donation is something that people are willing to think about. Some will consider doing it; many people, after looking into themselves, will not. On the other hand, if we put barriers in the way, we make it less likely that people will be willing to, and they are the people who deserve our support above all.

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The Chair (Mr. Bas Balkissoon): Thank you. We have about two and a half minutes from each side for questions. Mr. Dhillon.

Mr. Vic Dhillon: Thank you, Mr. Boadway, for your presentation and for your work. In your opinion, could you maybe explain if there will be an increase in donations by living donors with the job protection that we're offering?

Dr. Ted Boadway: I can only give you an answer from what we heard. We heard from people who said, "I have a situation in my family"—or affinity relationships—"where I would be willing to consider it, but I can't because I'm worried about my job security." We've heard that from people. When it actually comes time to do it, people go through another complex set of thoughts in their mind, and you can't guarantee that that will actually result in activity. I don't know of any way to tell you how you would predict or what the statistics would be on it. All I can tell you is that we actually heard from people who said, "I will give it serious consideration. I think I will do it if I have a guarantee of a secure job to come back to." Only time will tell whether that plays out.

Mr. Vic Dhillon: Thank you very much, again, for taking the time and for all your work. This is such an important issue.

Dr. Ted Boadway: Thank you.

The Chair (Mr. Bas Balkissoon): We'll now move to the PC party. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation, Mr. Boadway. Just for clarification, the PRELOD program is in effect now, is that correct?

Dr. Ted Boadway: It's running.

Mr. Norm Miller: So that covers some expenses and some income loss.

Dr. Ted Boadway: Yes.

Mr. Norm Miller: Okay. I think we're all supportive of this initiative and this bill and we hope it makes a bit of a difference, but it seems to me that there are still the great masses of people out there. A lot of them either don't think about organ donation or they're just not conscious or they don't know how to do it. We just heard from the previous presenter that we have the lowest deceased donation rate in North America. Are there other things that came from your report that you would recommend be done to try to change that number?

Dr. Ted Boadway: We actually put quite a complex series of recommendations in the report, which were related to what we can do with the public, what we can do with changing some of our laws to facilitate it, what we can do in hospitals, and what we can do with health professionals. We think there are a whole bunch of areas that each have to be addressed. No one can guarantee that if you actually do any one of those just right, you'll have the effect we would all love and would dearly wish. In fact, I don't think any one will do it. I think you have to approach it as a broad spectrum issue. You have to see what you can do in each one of these areas, and I think that, quite frankly, some of them are being ticked off as we go along. As I say, only time will tell if it's really going to work.

Mr. Norm Miller: Is there any jurisdiction in the world that is the reverse of us, that is the best example of a country or an area that is very successful with living and deceased donation rates?

Dr. Ted Boadway: One of my pet peeves, by the way—so I'll answer it this way. We heard about the wonders and the marvels of other jurisdictions, and I think you have to be very careful when you hear that. The reason you have to be careful is that when we actually looked into those other jurisdictions, we found that things weren't exactly as represented to us sometimes. Sometimes they kept their statistics differently, so that if they kept the statistics the way we do, they might have lesser rates than we do. Sometimes they had very different demographics among their population, so that, quite frankly, they had far more donors available, and the fact that they only had that many donors is a disgrace; they should have had more, because they're killing more people, for example. So I found that trying to look at other jurisdictions and saying, "They're perfect," was a futile exercise. What we decided to do instead was look at other jurisdictions for best practices, and we borrowed shamelessly. Those are in here.

The Chair (Mr. Bas Balkissoon): Thank you. We'll now move to Mr. Kormos.

Mr. Peter Kormos: I wish I had had more time with Dr. Levy. Do you have any sense of the profile of anonymous living donors?

Dr. Ted Boadway: None.

Mr. Peter Kormos: Is there a profile?

Dr. Ted Boadway: I can't tell you. I don't know.

Mr. Peter Kormos: I wish Mr. Markel was here, because I'd ask him—maybe you can help. In terms of this marketing towards young people, and I found young people—

Dr. Ted Boadway: I'm willing to cede a minute of my time. No problem.

Mr. Peter Kormos: Okay.

Dr. Ted Boadway: Frank, come on up.

Mr. Peter Kormos: Yes, please, because this focus on young people—just my sort of informal experience is that high school kids, college kids are more than willing to talk about organ donation and tend to be very gung-ho about the proposition. So I don't quarrel with identifying them as potential donors. Obviously, you're not talking about them necessarily being a donor as a young person; you're talking about them being part of the donor movement, if you will, all of their lives.

If you identified—again, are there age areas, are there other areas where people are more likely or less likely to be active donors, and that is to say, to actually do a donor card in the system that we have now?

Dr. Ted Boadway: You can answer that better than I can.

Dr. Frank Markel: Yes, I can answer it. Dr. Levy referred to it in his comments. There's a considerable differential in consent rates. The statistics I'm going to give you are the consent rates of families who had a loved one who had died and was actually in the situation and could be a donor. Across the province of Ontario, the overall average consent rate is 60%. Six families out of 10 say yes in the situation. In Toronto, it's four out of 10, and in the rest of the province, it's eight out of 10.

Mr. Peter Kormos: That's interesting, isn't it?

Dr. Frank Markel: I think it's very interesting. We have some data—it isn't data we could publish—looking at the consent rates by ethnic background. There's a considerable difference between people of European background and others. To a considerable extent, when you look at the ethnic makeup of Toronto, that explains the difference.

That's why, in particular, we have pushed on this multi-faith approach. There are misconceptions in the Jewish community, in the Muslim community, that their religious beliefs do not allow them to be donors, despite the fact that religious leaders in both communities affirm the support. That's part of the challenge we face, particularly in Toronto.

Mr. Peter Kormos: Okay. Thank you kindly. I appreciate your letting Dr. Markel come up here.

Dr. Ted Boadway: No problem—needed information.

The Chair (Mr. Bas Balkissoon): Thank you very much.

STEWART STARK

The Chair (Mr. Bas Balkissoon): The next presenter is Stewart Stark, Human Resources Professionals Association. Welcome. State your name for the record. You have 15 minutes. In whatever is left over, there will be questions.

Mr. Stewart Stark: All right. I don't think I'll be that long. Thank you, Mr. Chair and members of the committee.

My name is Stewart Stark. I'm employed by the Human Resources Professionals Association, but I'm here as an individual and as an organ donor to talk about my experience with organ donation.

In late 2001-02, my father's liver started to deteriorate due to cirrhosis of the liver. He was put on a donor list at that time, once it was determined that he needed one. Then, in early 2002, the option was brought to me to be a living donor, which I immediately said yes to. You don't really think about it; you just do it.

On June 6, 2002, I successfully donated 70% of my liver to him. I was told at the time, or leading up to it, through all the tests, that I'd be off work for probably between six and eight weeks. But I was very lucky in that I ended up being off for only about three and a half weeks. I was in hospital for about a week, and then for about two, two and a half weeks, I was recuperating at home.

I really like this bill for the simple fact that—when I was talking to my father about this, obviously there were concerns from him about my health and what might happen to me. I'm very healthy; I recovered very quickly, so that wasn't an issue. Obviously it was a concern of his. But at the time, I was 22 or 23. It was very early on in my career, and that was a real worry for him, taking this time off, potentially six to eight weeks from my employer, and how that was going to go. Again, I was very lucky in that respect. I was given two weeks off paid, and then I had to apply for EI, and basically by the time I applied for EI, I was coming back to work.

That's really all I have to say about that. That was my experience.

1350

The Chair (Mr. Bas Balkissoon): Thank you very much.

Mr. Stewart Stark: You're very welcome.

The Chair (Mr. Bas Balkissoon): We'll go to questions now. Mr. Miller, you have about three minutes.

Mr. Norm Miller: First of all, thank you for your presentation, for bringing your personal experience to bear on this issue.

Mr. Stewart Stark: No problem.

Mr. Norm Miller: In your case, it was obviously your father, so it was—prior to this experience, had you thought about organ donation at all?

Mr. Stewart Stark: I really hadn't, up until even after my father got sick and was put on the list. They have a policy: The person who needs the organ can't directly ask you; it's brought up. I guess it's a moral thing. Really, up

until that conversation, I didn't really—I'd heard of it, I'm sure. I'd maybe given it a passing thought, but I hadn't really thought of it in this situation.

Mr. Norm Miller: Had you thought about the deceased—did you sign your driver's licence, that kind of thing?

Mr. Stewart Stark: No. No, I hadn't even done that, to be honest with you.

Mr. Norm Miller: I think there are lots of people out there who are like yourself and hadn't thought about it.

Mr. Stewart Stark: Absolutely.

Mr. Norm Miller: In fact, I think I've signed my driver's licence, but I'm going to check the Trillium Gift of Life website to make sure I'm registered to donate organs. Do you have any suggestions on what you think we can do to make more people aware of organ donation?

Mr. Stewart Stark: Of my close family and friends, I'm the only person I know who has done this. I have had a chance, obviously, to meet a lot of people who have since, but everybody is interested in it. Everybody wanted to know. As an organ donor, you tend to downplay it a lot because it was three weeks, and I felt fine afterwards. I've talked to other donors, and everybody downplays it. Everybody else thinks it's a great big deal, but I guess you need to be humble about it. Everybody wanted to know about it, and at the end of those conversations, I would usually ask, "Have you signed your donor card?" They would usually say, "I haven't even thought about it," but in most cases, they would now.

Mr. Norm Miller: Yes. Mr. Klees and also Mr. Kormos had private members' bills to do with trying to get more people to think about it. In Mr. Klees's case, if you applied for a health card or a driver's licence, you would have to check off a box, "yes," "no" or "don't know." You had to make a choice anyway, and I think that's a good idea so that at least people at one moment in time think about it and make a decision. Then you can have a registry from that where you know the people who are willing to donate.

Mr. Stewart Stark: It's all about having a conversation about it, bringing it up and also knowing somebody. Obviously, everybody isn't going to know. Somebody else: in the situation, but I think as soon as it touches a little closer to home, people will give it more thought, give it more serious thought. To this day still, before people ask how I am, they ask how my father is. It has made a big difference.

Mr. Norm Miller: Thank you.

Mr. Stewart Stark: You're welcome.

The Chair (Mr. Bas Balkissoon): Mr. Kormos.

Mr. Peter Kormos: How's your dad?

Mr. Stewart Stark: He's very well.

Mr. Peter Kormos: It's interesting. If I was told by my doctor that I needed a liver, I'd have to get my brother over to the house somehow, maybe get a few drinks into him and—

Interjections.

Mr. Peter Kormos: Well, no, seriously.

Mr. Stewart Stark: Probably not if you needed a liver.

Mr. Peter Kormos: And you just sort of casually say, "Oh, by the way, it would really be nice if I could get your liver?"

Mr. Stewart Stark: You've got to bring it up in a way that isn't really asking. The way it happened for me was that my parents sat me down and said, "This is an option." As soon as they said, "This is an option," a light bulb went off, and I said, "Okay, let's do it. Let's start the testing."

Mr. Peter Kormos: Fair enough, but did they get direction from the medical staff who were supervising your father?

Mr. Stewart Stark: I believe they did, yes.

Mr. Peter Kormos: We read in the paper—was it today?—that how the organ is requested of the deceased's family makes a big difference in whether or not that family—of course, we're talking about dead donors. But is this direction given by way of advice? You don't want to extort organs out of people.

Mr. Stewart Stark: Absolutely.

Mr. Peter Kormos: Because they're a loved one, you don't want to make them sort of—extort. Was that the basis of the counsel that your father got, that this is a fairer way of asking than outright asking?

Mr. Stewart Stark: I believe so, yes, because they did mention to me afterward, "We can't ask like this." I believe my mother actually said that during the conversation. She said, "We can't ask you to do this. We just need to bring it up and make you aware of this option." I'm assuming that the doctors they were dealing with at Toronto General advised them on that.

Mr. Peter Kormos: That's interesting. I can be so incredibly obtuse sometimes and miss the point and miss the point and miss the point. Then I'd end up going home and three days later I'd go, "Wait a minute. I think...." Okay, that's interesting. That's a great story.

We're on to the levels of discomfort and so on. It hurts, I suppose? I've never had surgery. I had my appendix out when I was three years old, but I've never—

Mr. Stewart Stark: You'd better knock on wood.

Mr. Peter Kormos: So it hurts?

Mr. Stewart Stark: I've got a scar kind of coming down like this. I was in the hospital for a week. For the first three or four days, I was way too out of it to feel anything.

Mr. Peter Kormos: On morphine and stuff?

Mr. Stewart Stark: I was on just about everything at the time. Then afterwards, actually, the only discomfort I had was that the nurse happened to give me blood thinner in the same arm instead of switching it up. That wasn't even part of the actual surgery. Other than that, it really wasn't that sore. It heals up. You know, it's uncomfortable. It gets itchy, but it's not pain. It's just discomfort.

Mr. Peter Kormos: Is there any sensation that you've had at least, what, half your liver taken?

Mr. Stewart Stark: No, and by the time you're back to 100%, your liver is almost regrown.

Mr. Peter Kormos: Foie gras.

Mr. Stewart Stark: It takes between six and 12 weeks to regenerate. Now, apparently, I did get better a lot more quickly than most people had in my position.

Mr. Peter Kormos: Thanks for coming here today. I appreciate it.

Mr. Stewart Stark: You're very welcome.

The Chair (Mr. Bas Balkissoon): Thank you very much for coming and sharing your situation with us.

Mr. Stewart Stark: You're very welcome.

Mr. Vic Dhillon: Chair?

Interjection.

The Chair (Mr. Bas Balkissoon): Sorry. I forgot the government side. I got taken up with Peter. My apologies to Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for everything, for your courage and coming here. It really means a lot.

Mr. Stewart Stark: You're very welcome.

Mr. Vic Dhillon: My question is, what impact would providing job-protected leave have on living donors? Would they tend to be more positive in terms of making that decision?

Mr. Stewart Stark: I really believe they would, and as I said, it's—I can only speak for myself, but when you decide to do this, everything else becomes secondary to a certain extent. You still have to worry about your life, but you're more worried about the person you're donating to being comfortable with it. I've talked to quite a few donor recipients, and they get a little stressed out, and they worry about this loved one who's in great health who then has to go under the knife and go through this procedure, so they're always thinking of them. This not only puts the donor at ease, but it puts the recipient at ease, which, in a way, further puts the donor at ease, and everybody kind of feels better about it. I hope that made sense.

Mr. Vic Dhillon: Sure. Do you feel that 13 weeks is enough time? I know you mentioned you recovered much earlier than the average. Can you give us some comments on that?

Mr. Stewart Stark: I can only speak about the liver and myself, obviously. I think 13 weeks is a good amount of time, but again I can only speak about the liver. I don't know how it is for other organs and how long the recuperation time is.

Mr. Vic Dhillon: Good. Once again, on behalf of the committee, thank you very, very much for everything you've done.

Mr. Stewart Stark: Thank you very much for having me.

The Chair (Mr. Bas Balkissoon): Thank you very much again.

1400

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): That's the end of deputations. We have a report of the subcommittee on committee business. Mr. Delaney.

Mr. Bob Delaney: Your subcommittee met on Wednesday, April 8, 2009, and agreed to the following:

(1) That members of the Standing Committee on the Legislative Assembly and two staff attend the 2009 annual meeting of the National Conference of State Legislatures, subject to approval by the House.

(2) That the subcommittee be authorized to approve a committee budget for the delegation attending the NCSL annual meeting for submission to the Speaker and the Board of Internal Economy for their approval.

The Chair (Mr. Bas Balkissoon): Thank you very much. Shall the report of the subcommittee be adopted?

Interjection: Carried.

The Chair (Mr. Bas Balkissoon): That carries.

Mr. Peter Kormos: Chair?

The Chair (Mr. Bas Balkissoon): Can I just make two short announcements and then I'll come back to you?

Mr. Peter Kormos: I want to speak to this, Chair.

The Chair (Mr. Bas Balkissoon): Oh, this one? Okay. Sorry, go ahead.

Mr. Peter Kormos: Mr. Miller and I were at the House leaders' meeting this morning, and in a rare moment of generosity, I proposed that that wasn't an inappropriate proposal, especially if newer members of the Legislature tend to go on these, because they can, if people are disciplined, be good learning experiences. But the government raised concerns about two staff members. I, quite frankly, deferred to the committee. I said, "Here's the committee's request." Some of you may know I believe very strongly that committees should control their own process as much as possible. The committee made a decision for two staff people. I was told—and I'm not sure how valid it was—that the precedent is one staff person. I'm not sure if that's necessarily a hard precedent when you've got nine committee members going, because staff people learn things too, right? We're talking about people from the clerks' office, I presume, amongst others. So perhaps the committee could talk about that so we can persuade the government not to be so niggardly in terms of just one seat.

The Chair (Mr. Bas Balkissoon): Mr. Delaney?

Mr. Bob Delaney: Chair, I agree with Mr. Kormos. In the two such events I've attended, the presence and the contribution of both staff members was absolutely invaluable for ensuring that for the delegates attending, the process of moving through the convention was smooth, that we were able to meet and effectively work with members of other state and provincial Legislatures. I think the presence of both staff members, on both occasions that I've attended this convention, has been full value for the dollar, and I've observed particularly how our clerk has worked very hard throughout the event.

The Chair (Mr. Bas Balkissoon): Mr. Miller, did you have a comment?

Mr. Norm Miller: Sure. I don't know what the precedent is, whether it was just raised by some government members. They seemed to think it was one, not two, staff members, although, as I recall from last year's conference, the staff member was actually participating, I

believe, in putting one of the seminars on, to do with the way the Ontario Legislature records its Hansard and all the various treasures in our library on to digital form. But perhaps you could let us know what the standard is or if there is one. Otherwise, I'm fine with two.

Mr. Peter Kormos: This is stupid to talk standards, precedents. First of all, I don't believe it's a precedent, and Mr. Delaney's just confirmed that. Secondly, the committee should control its own process in that regard.

Now, who are the two staff people who are contemplated attending?

The Chair (Mr. Bas Balkissoon): The clerk and the procedural clerk went the last time, right?

Interjection.

The Chair (Mr. Bas Balkissoon): So it'll be the clerk and the procedural clerk, the research officer.

Mr. Peter Kormos: These people not only assist members during their attendance, as Mr. Delaney has said, but they undoubtedly interact with their counter-

parts, because other teams of delegates have brought their staff people along. This isn't just a politicians' event; it's something that the civil servants and bureaucrats, amongst others, can derive benefit from too.

So I hope the committee can just be very clear in that it's asking for two staff. It has been, at the very least, the recent history of the committee that those two staff persons have been valuable to the committee members who attend, and that they, in and of themselves, bring back a whole lot of stuff.

The Chair (Mr. Bas Balkissoon): I hear you loud and clear. Thank you for your comments. The committee did carry the report.

I just have two quick announcements. I want to remind you that the deadline for filing amendments is Monday the 27th, at 3 p.m., and on Wednesday, from 1 to 3, we'll be doing clause-by-clause.

Thank you very much. The committee's adjourned.

The committee adjourned at 1405.

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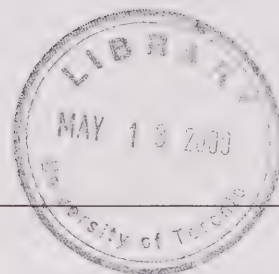
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Legislative Assembly of Ontario

First Session, 39th Parliament

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Première session, 39^e législature

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Wednesday 29 April 2009

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Mercredi 29 avril 2009

Standing Committee on the Legislative Assembly

Employment Standards
Amendment Act
(Organ Donor Leave), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 modifiant la Loi
sur les normes d'emploi
(congé pour don d'organe)

port regarding an investigation into the city of Oshawa's apparent failure to co-operate.

Mr. Peter Kormos: I did get that. What the hell's going on in Vaughan? Is there anybody in Vaughan who isn't going to be charged with a criminal offence?

The Chair (Mr. Bas Balkissoon): I don't know—

Mr. Peter Kormos: I realize that's not Oshawa, but I just wanted to raise it. What the hell's going on in Vaughan?

Interjections.

Mr. Peter Kormos: Rife with corruption. It's full of corruption.

The Chair (Mr. Bas Balkissoon): That's for a different day, my friend. My question to the committee is, as the Ombudsman reports to this committee, would you like us to have him here on this report, or would we just waive the process as we've done?

Mr. Peter Kormos: With respect, Chair, could that question be deferred to the next meeting of this committee? I've got the report. I saw it; I haven't read it.

The Chair (Mr. Bas Balkissoon): I don't believe there's any rush, but let me just make sure.

The Clerk of the Committee (Ms. Tonia Grannum): No, that's fine.

The Chair (Mr. Bas Balkissoon): No, we could deal with it at the next meeting.

Mr. Norm Miller: Chair, I agree. I haven't read the report yet, so I'd like an opportunity to read it.

The Chair (Mr. Bas Balkissoon): Okay. We'll give you a chance to read it, and we'll defer the decision on what we do with the report to the next time the committee meets.

Thank you all very much. The committee is adjourned.

The committee adjourned at 1313.

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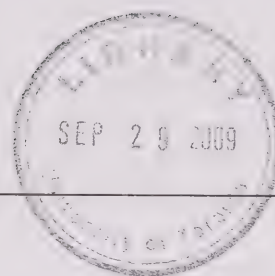
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Mercredi 16 septembre 2009

Standing Committee on the Legislative Assembly

Committee business

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 16 September 2009

Mercredi 16 septembre 2009

The committee met at 1309 in room 228.

ELECTION OF VICE-CHAIR

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order for Wednesday, September 16, 2009.

The first item of business is the election of a Vice-Chair. May I have names? Mr. Brownell.

Mr. Jim Brownell: Mr. Chair, although he's not here at the moment—probably stuck in traffic somewhere—I'd like to nominate Khalil Ramal.

The Chair (Mr. Bas Balkissoon): There is an understanding that Mr. Ramal is going to accept the nomination, I believe. Any other nominations? Okay, there being no further nominations, I declare the nominations closed and Mr. Ramal elected Vice-Chair of the committee.

ASSIGNMENT OF MINISTRIES

The Chair (Mr. Bas Balkissoon): The next item on the agenda is the draft committee report, pursuant to standing order 111(b). I think most of us saw this before we left. I hope everyone has a copy. Questions, comments? There being none, can I have a motion to adopt the report?

Interjection.

The Chair (Mr. Bas Balkissoon): Moved by Mr. Flynn that the report be adopted. All in favour? Carried.

Ms. Sylvia Jones: A point of clarification: From reading standing order 111, any committees that are assigned to the Leg Assembly, we can then call and ask them to appear?

The Clerk of the Committee (Ms. Tonia Grannum): No. Actually, standing order 111 pertains to the assignment of ministries. There are policy field com-

mittees which can do standing order 126 designations, and they then have to make sure the ministry falls under their committee. If you look at the full report, you'll see the Standing Committee on General Government and the list of ministries that fall under that committee, the Standing Committee on Justice Policy and the Standing Committee on Social Policy. For that specific issue of 126 designations or for any other matters any of those policy field committees may wish to review, they have to make sure the ministry falls under their committee, if they wanted to do a review. Okay?

Ms. Sylvia Jones: Got it.

The Chair (Mr. Bas Balkissoon): Any other questions, comments? Okay.

Shall I present the report to the House? Carried.

COMMITTEE BUSINESS

The Chair (Mr. Bas Balkissoon): The next item I have on the agenda is other business, which is the Ombudsman's reports. I believe before we recessed, there were a couple of reports from the Ombudsman. I'm told that someone here was interested in the Ombudsman reporting to committee. Is that the wish of the committee?

Interjection.

The Chair (Mr. Bas Balkissoon): I have one yes. Any other comments?

Okay, we'll refer this to the subcommittee to pick the date and the procedure for the Ombudsman to be here. Is that okay with everyone? Okay.

That's all the business of the committee. The committee's now adjourned.

The committee adjourned at 1313.

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Standing Committee on the Legislative Assembly

Animal Health Act, 2009

Comité permanent de l'Assemblée législative

Loi de 2009 sur la santé animale



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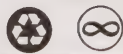
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 25 November 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 25 novembre 2009

The committee met at 1304 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): I would ask members to take their seats. We'll call to order the meeting of the Standing Committee on the Legislative Assembly for Wednesday, November 25, 2009. We're here to deal with Bill 204.

Mr. Levac, will you read the report of the subcommittee on committee business?

Mr. Dave Levac: Your subcommittee met on Wednesday, November 18, 2009, to consider the method of proceeding on Bill 204, An Act to protect animal health and to amend and repeal other Acts, and recommends the following:

(1) That the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 204 on the Ontario parliamentary channel and the committee's website.

(2) That the clerk of the committee also send information regarding the public hearings on Bill 204 to Canada NewsWire.

(3) That the Ministry of Agriculture, Food and Rural Affairs provide the committee with Bill 204 briefing binders prior to the public hearings.

(4) That interested parties who wish to be considered to make an oral presentation on the bill contact the clerk of the committee by 12 p.m. on Monday, November 23, 2009.

(5) That if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 12:15 p.m. on Monday, November 23, 2009, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled by 2 p.m. on Monday, November 23, 2009.

(6) That the length of time for all witness presentations be 15 minutes.

(7) That the committee be authorized to meet for public hearings on Wednesday, November 25, 2009, from 1 p.m. to 3 p.m. and from 4 p.m. to 6 p.m. as per the time allocation motion.

(8) That the deadline for written submissions on the bill be 5 p.m. on Wednesday, November 25, 2009.

(9) That the deadline for filing amendments be 12 p.m. on Monday, November 30, 2009, as per the time allocation motion.

(10) That the committee be authorized to meet following routine proceedings on Tuesday, December 1, 2009, for clause-by-clause consideration of the bill as per the time allocation motion.

(11) That the research officer provide the committee with a comparison of similar legislation from other jurisdictions prior to public hearings on the bill.

(12) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

So offered to you, Mr. Chairman.

The Chair (Mr. Bas Balkissoon): Shall the subcommittee report carry? Mr. Hardeman.

Mr. Ernie Hardeman: I was at the subcommittee meeting, and I didn't realize we'd made that many recommendations, but I didn't see any that weren't accurate.

The Chair (Mr. Bas Balkissoon): Okay. All in favour? Carried.

ANIMAL HEALTH ACT, 2009

LOI DE 2009 SUR LA SANTÉ ANIMALE

Consideration of Bill 204, An Act to protect animal health and to amend and repeal other Acts / Projet de loi 204, Loi protégeant la santé animale et modifiant et abrogeant d'autres lois.

ANIMAL ALLIANCE OF CANADA

The Chair (Mr. Bas Balkissoon): Okay, our 1 p.m. delegation is the Animal Alliance of Canada, Karen Levenson. Have a seat and state your name for Hansard. You have 15 minutes for your presentation. If there's any time left at the end of your presentation, I would allow questions from all parties. I will give you about one minute before your time is up.

Ms. Karen Levenson: Good afternoon. Thank you, everybody, for allowing me to present here today. My name is Karen Levenson, and I'm with Animal Alliance of Canada.

Is Bill 204 comprehensive enough to protect the health of farm animals and humans in Ontario?

Mr. Dave Levac: Sorry, because of the way the system works, you just need to speak towards the microphone so it's not a disruption for Hansard.

Ms. Karen Levenson: Sorry. We are concerned that Bill 204 fails to recognize the connections between animal welfare and animal and human health. Scientific evidence identifies animal welfare as inextricably linked to animal health, public health and food safety.

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Though the idea of preventing animal disease is discussed, no regulation of farm practices is in place to avert the onset or outbreak of disease. Ontario has the highest density of intensive livestock operations in Canada. Animal welfare should be considered as an assurance to greater public health, product safety and industry productivity, yet no federal or provincial laws protect animals from established farm practices that systemically undermine animal welfare and health.

The OSPCA act deals with specific incidences of animal abuse but excludes established industry practices. Voluntary codes of practice do not improve animal welfare. Raising the standard of farm animal welfare in Ontario through the regulation of minimum standards ought to be an integral part of Bill 204.

The cattlemen's association has requested that "The scope of any new on-farm animal care and housing standards or regulations should be restricted to animal health emergency situations that require a rapid response to control and contain disease outbreaks." Why wait for a health emergency to take the lives of thousands of animals and unknown numbers of humans? We need regulations that prevent disease, not just control or contain it.

Can industry or government guarantee that climate change or currently unknown factors will not impede or thwart efforts to contain and control disease? Prevention provides greater protection for farm animals, humans and the economy.

What farm animal welfare regulations are needed to ensure the health of animals, humans and the economy? Let's look at some of the welfare problems on Ontario farms. They include intensive confinement, inability to express natural behaviours, barren environments and lack of genetic diversity.

The majority of our farm animals spend their entire lives in overcrowded, barren sheds or cages, living in their own manure. Most farm animals cannot engage in natural behaviours: foraging, perching, nesting, rooting, mating. Many are not able to turn around or fully stretch their limbs.

Long-term stress arising from environmental effects can affect the immune system and lower an animal's ability to fight off infection. Chronic multiple stress, which is more likely in factory farms, creates a breeding ground for disease.

Finally, intensive farming facilities rely on selective breeding to enhance specific traits such as growth rate, meat texture and taste. This practice results in a high degree of inbreeding, reducing biological and genetic diversity and the ability to fight off disease, and represents a global threat to food security.

We need minimum animal welfare standards to regulate the above contributors to disease outbreak.

What are the risks to animal and human health in intensive farming practices? They are infectious disease outbreak and pathogen transfer, antibiotic resistance, hormone contamination of food products and fire.

Pathogen transfer: The potential for pathogen transfer from animals to humans is increased with intensive farming because so many animals are raised together in confined areas. Direct exposure is not the only health risk, however. Health impacts often reach far beyond the farm. Infectious agents, such as a novel or new avian influenza virus, that arise on factory farms may be transmissible to farm workers, who transmit it from person to person in the community and well beyond. An infectious agent originating at a factory farm may persist through meat processing and can contaminate consumer foods, resulting in a serious outbreak of disease far from the factory farm.

Antibiotic resistance: The increased potential for disease on factory farms leads farmers to feed animals large quantities of antibiotics. This practice can lead to more drug-resistant strains of bacteria. Superbugs take their toll on human health, strain the medical system, reduce productivity and affect the economy in all industry sectors. Intensive farming routinely uses specially formulated feeds that incorporate antibiotics or other antimicrobials and hormones to prevent disease and induce rapid growth. The use of low doses of antibiotics as food additives facilitates the rapid evolution and proliferation of antibiotic resistant strains of bacteria. The resulting potential for resistance reservoirs and inter-species transfer of resistance should be a high-priority health concern. Antibiotic residues in animal products also pose a health risk to humans. Improve the welfare of farm animals and you reduce the need for antibiotics and thus reduce the spread of antibiotic resistance and food contamination.

Hormones: Growth promoters like ractopamine are at sub-therapeutic levels. They're in antibiotics in commercial feed, and hormone implants are inserted into the ears of cattle. There have been no long-term large studies, though short-term small studies have shown dose-dependent cardiovascular effects in humans. Can growth hormones contribute to heart disease? Is OMAFRA willing to take this chance?

Fire: Barn fires pose the ultimate risk to animal and human health. They decrease the economic potential of the livestock industry and cost tax payers dearly. Fire prevention and animal evacuation are paramount in ensuring the health and well-being of animals, Ontarians and our economy.

You will see from the photos that pigs do not die immediately from smoke inhalation. They pile up and try to escape from their cages and crates. Firefighters describe pigs screaming as they are being burnt alive, their stomachs imploding.

Bill 204 should include regulations that mandate retroactively equipping existing barns and outfitting new barns with sprinkler systems, smoke alarms and devices to detect ventilation failure and power outages. We ask

OMAFRA to change the building codes to require retrofitting for old barns and installation in new barns of fire prevention and detection equipment.

Who should pay for these changes? Changes in welfare standards will create additional production and processing costs, although some of these may be modest, and there might even be some cost reductions. Consumers may be willing to pay a premium for welfare-friendly products, thus helping to offset additional costs. It is incumbent on the government of Ontario to use financial and other support to assist farms with improving animal welfare conditions so they don't jeopardize animal and humane health.

How can the government help? Some suggestions: Protect farmers from market pressures that force them to cut back on space, bedding, ventilation, enriched environments, fire equipment and everything else that plays a key role in animal welfare; create product-differentiation programs that provide premium price for products produced according to specific standards; offer monetary incentives to encourage conversion to higher welfare standards; and provide mandatory welfare training, inspection, enforcement and research to protect the health of animals and humans.

I just want to say that we believe that most farmers do not want to shirk on the welfare of their farm animals. Yet when it comes to the conditions that they see themselves in where they're just making ends meet, it is very hard to implement farm practices that go beyond what they're currently doing. We believe that, given the opportunity through financial and other support from the Ontario government, they will be able to enact these changes. That will actually be a cost savings because prevention is far less expensive than a cure, and that is shown in many of the documents provided at the EU.

I want to thank you for listening to me today, and I hope you take my report into consideration.

The Chair (Mr. Bas Balkissoon): Okay, you've left about a minute each for questions. To the official opposition. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for the presentation. It caught my attention, the issue that people would be willing to pay more if we farmers went to that extra length, yet our biggest problem in agriculture today is that there are products that are produced elsewhere with no controls. Because they are here, they're driving the price down because consumers tend to buy at the lowest possible price. Could you give me a quick suggestion of what you would do to make people aware and to get people to actually pay more for the environmental ones produced?

Ms. Karen Levenson: Well, certain people will pay more, and that's proven in the European Union, with cage-free eggs just skyrocketing in market share. I take your concern, and it is a great concern, especially in the market today, with the economy.

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What our farmers need is market protection. In the European Union, there are considerable noises about

trade, mandating that any importation of products must meet minimum welfare standards for animals, and we could do the same here, to prevent animal products coming in from places that don't have the same standards.

The Chair (Mr. Bas Balkissoon): We'll move on to the NDP. Mr. Hampton.

Mr. Howard Hampton: I want to further explore the question that Mr. Hardeman just asked you. I have all kinds of farmers in my constituency, many of them beef farmers, and because land is not expensive in the part of the province where I live, most of their cattle range freely over the landscape and are fed grains and hay that are produced locally. Yet, when I talk to farmers in my constituency, they say that they are constantly under pressure in terms of beef imports from elsewhere, where the same kinds of conditions simply don't exist.

I think the majority of farmers in Ontario would like to produce food that meets animal welfare and environmental standards, and other standards, but we seem to have a system that drives everyone to the lowest common denominator. How do you fix that?

Ms. Karen Levenson: It's not a simple fix. I think it takes everybody working together. How do you fix people going for the least possible dollar value in their products? Through trade regulations—that's one way of doing it. Public education, I think, is another way: showing that products that are raised with good welfare standards are better and do not have the health risks that are involved with products that come from non-animal-welfare- and non-environmental-welfare-oriented facilities. So I think—

The Chair (Mr. Bas Balkissoon): I have to move on. The government side. Mr. Johnson.

Mr. Rick Johnson: Thank you, on behalf of the government, for making your presentation today. You've raised some interesting points and I'm sure we'll have a chance to consider them more fully.

Ms. Karen Levenson: Thank you very much. I appreciate it.

ONTRACE AGRI-FOOD TRACEABILITY

The Chair (Mr. Bas Balkissoon): The next presenter is OnTrace Agri-Food Traceability. Mr. Curtiss Littlejohn and Mr. Brian Sterling, please come forward and state your names for Hansard. You have 15 minutes for your presentation. If you leave any time at the end of your presentation, I will allow equal time for questions.

Mr. Curtiss Littlejohn: Good afternoon. First, I would like to start by thanking the members of the standing committee for providing an opportunity to speak on Bill 204 this afternoon. I'm Curtiss Littlejohn. I am a pork producer from Brant county and the current chair of OnTrace Agri-Food Traceability. My comments today will go specifically to the sections of the proposed Animal Health Act that deal with traceability.

OnTrace is an industry-led, not-for-profit organization created to lead food traceability initiatives and programs throughout Ontario. Established with an initial invest-

ment of \$10 million by the Ontario government, OnTrace's goals are to deliver traceability solutions that will enable agriculture and the agri-food industry in Ontario to become more innovative and competitive—and this is of specific relevance to today's presentation—and to strengthen the capacity of industry and government to respond to emergencies related to agriculture and agri-food welfare and public safety.

As you may be aware, traceability is a tool that allows for the sharing of information. Traceability plays a key role in emergency management, animal health, food safety incidents, public health and market access opportunities for the agriculture and food sectors. There is direct applicability of traceability to protecting animal health because in most cases, it will be the ability of authorities to readily access reliable and relevant information which will determine the implications and possible negative consequences of an animal health event.

In terms of the specifics of Bill 204, I would like to offer the following comments: First, OnTrace is heartened to see the rapid progress of this bill through the Legislature. Agricultural groups have been asking for animal health legislation for many years. The genesis of the Ontario Livestock and Poultry Council, from which you will hear later today, was founded on our industry's interest in addressing this very issue. Ontario is the only remaining province in Canada without legal provisions that specifically pertain to animal health and a chief veterinary office. OnTrace would like to firmly state that we believe this animal health legislation can help protect animal health and the implications of serious animal health events on both public health and the economic viability of the Ontario livestock and poultry sector. Our reading of the proposed act has affirmed that it will play a central role in mitigating the impacts of animal diseases on Ontarians.

Second, and for the balance of my presentation, I will focus especially on traceability and its inclusion in the bill under consideration. Ontario's agriculture and food sectors need relevant, reliable and readily accessible information that can be shared in the event of a situation involving animal welfare as well as other emergency management events. A traceability system supported by government can significantly help to reduce business risks and negative consequences of these hazards.

At OnTrace, we have been saying this since our inception. Traceability is a tool for sharing critical information so that decisions can be made more quickly and with greater assurance. The provincial government recognized this with their initial investment in OnTrace, and recently the Ontario Minister of Agriculture and agri-food expressed solidarity with her fellow colleagues at the July FPT ministers' meeting, where commitment was made to mandatory livestock and poultry traceability by 2011.

Achieving this important national outcome is one we must collectively work to achieve. OnTrace sees the traceability content in the proposed legislation as a

positive step and as essential to enabling industry and government to jointly address the challenge of meeting the national traceability milestone.

Our third comment relates to how information should be used for helping farmers and food producers withstand the negative impacts of animal health emergencies on the industry. As I have said, traceability systems facilitate rapid sharing of critical information during an animal welfare or food-related emergency. Such a system also exhibits to our consumers and to our trading partners that we take animal and public welfare seriously. Ontario agriculture and food sectors need a legislative framework to enable us to create and maintain a tool that proves we have the best and safest food in the world.

Current data collection systems are useful for other purposes, but they are voluntary and lack sufficient support to demonstrate the types of discipline and responsiveness that are now absolutely critical to maintaining our domestic and export market shares.

Fourth, section 33 of the bill before you has adequate enabling language to develop regulations that would provide for the operation of a provincial traceability system. It is noted in the proposed text that the minister or their designate will collect the prescribed information, such as the identification of premises, the identification of animal products and their movement from one premise to another premise. Currently, OnTrace works with the industry to voluntarily access information for the Ontario agri-food premises registry. With this activity, OnTrace is making small, yet vital progress towards a full traceability system.

We are encouraged by the participation of industry—both producers and processors—but we need the tools to do the job more effectively and completely. Designation of OnTrace as the recognized authority for the collection of traceability information is, in our view, a natural evolution of our role.

Our final comment is meant to impress upon you the urgency of establishing a framework and the accompanying regulations for a provincial traceability system. Animal and food emergencies will not wait, nor do they respect political boundaries. We have already seen the negative consequences of not having the disciplined systems to prove how well our farmers and processors deliver safe and healthy food to our customers. Many times, the negative trade impacts of animal health and food-related incidents far outweigh the actual costs of repairing the direct damages of those incidents. Events around the globe have made the point that protective and preventive measures taken before a problem occurs more than offset the likely cost and damages imposed by the emergency itself. As a proactive provincial industry, agriculture and food needs to be prepared and given the support for the tools needed to combat these realities. Mandating collection of information for farm premises identification is a first step to building a traceability system for the province of Ontario. Collection of additional information for this purpose must follow quickly if we are to remain competitive in the global market.

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In closing, OnTrace believes that with the passage of this proposed legislation, Ontario will be taking an important step in directly addressing the importance of animal health and traceability to the vitality and the viability of the Ontario agriculture and agri-food sectors—sectors, we would note, that are of growing economic importance to this province. OnTrace offers you our comments in the belief that they can help effect the kind of positive change and support we as producers and processors need to manage emergencies related to agriculture and to animal health.

Thank you for your time and your attention. If there are any questions or comments, I'd be pleased to respond to them.

The Chair (Mr. Bas Balkissoon): Okay. We've got about a minute and a half each, so we'll start with the NDP.

Mr. Howard Hampton: I would take it from your brief that you feel this legislation is a step forward in terms of promoting food traceability, but I also take it from your brief that we're not there yet. I wonder if you could elaborate a bit. You said, "But we need the tools to do the job more effectively and completely."

Mr. Curtiss Littlejohn: Absolutely. One of the issues we have around traceability is lacking the tools to make it enforceable, to make it defensible and to make it mandatory. By putting this legislation into place and the regulations that come with it, we will hopefully see in the regs the tools that we need as an industry and as a province to mandate traceability from the primary sector up through the food processor. Traceability is built on solid foundations. Solid foundations, as the government and ourselves would concur, are the premise I.D. That is the starting point.

The Chair (Mr. Bas Balkissoon): Mr. Levac.

Mr. Dave Levac: I appreciate the opportunity. Curtiss, thank you for being here and for the many hats that you wear. I know that as a constituent you are a great champion of not only this cause but agri-food and agribusiness. I want to thank you and encourage you to continue your good work.

I was curious as to the volunteer base: if you could maybe outline quickly how that has been going in terms of the volunteer registration and the groups that are now coming with OnTrace that you've been able to convince this is the right way to go. By the way, if I'm not mistaken, most farmers were already on base for being traceable; they just needed the focus.

Mr. Curtiss Littlejohn: Yes, perhaps I'll let Brian Sterling, our chief executive officer, talk to the numbers. He knows what—

Mr. Dave Levac: And the second one, very quickly: Inside of that, you're continuing to work with ministry staff because first of all they're here, and they're listening. The minister will be briefed about this. You're continuing to work with her and them to continue your task of what was asked by Mr. Hampton: to move

forward and to get that regulatory stream looked at and to work with OnTrace and the government.

Mr. Curtiss Littlejohn: Absolutely, Mr. Levac. We are working with the ministry staff on a weekly basis to move this forward and to move forward the position of OnTrace being the traceability provider here in Ontario.

As far as the numbers as to who is on side, I'll let Brian speak to that.

Mr. Brian Sterling: Thank you, Mr. Levac, for your question. I'm Brian Sterling; I'm CEO of OnTrace Agri-food Traceability.

Our current system is based upon voluntary permission-based data gathering. We have informed consent agreements with a number—in fact about 11—of producer organizations plus the independent meat processors in Ontario to provide OnTrace with the information we need to be able to validate the location of their premises. We have a good level of participation from livestock and from horticultural sides of the industry.

The Chair (Mr. Bas Balkissoon): We will have to move on to the official opposition. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for the presentation. First of all I just want to touch on the organization itself. OnTrace, is it a structured—you said it's \$10 million from the provincial government. Is it a provincial government organization that's been put at arm's length?

Mr. Curtiss Littlejohn: Thanks for the question, Mr. Hardeman. No, it is not a provincial government organization. It was created approximately three and a half years ago with a one-time provincial grant at the bequest of all of the livestock industries, and we are there as an industry.

Mr. Ernie Hardeman: Curtiss, if I could go on: You comment that this will make things mandatory, and this will make things better. First of all I support the traceability. I think every agriculture commodity group would approve of that part. My concern is that this bill doesn't do that when it's permissive for the minister to do anything at all. There's only one part that says the minister may by regulation set in a framework for traceability, and that's going to be done when the federal government comes through with a joint program. Why do you see it necessary for it to be in here to sell the rest of the bill when we are all waiting for the federal government to do traceability country-wide, which will include all of Ontario? Could you tell me the connection or the disconnect, why Ontario needs it separately if the federal government is going to do it in its entirety?

Mr. Curtiss Littlejohn: In this great country of ours, we have national areas of responsibility and we have provincial areas. Land parcel registry is a provincial jurisdiction, and unless we have a strong provincial system where it is mandatory for agricultural premises to be registered and a system that can move that data on quickly, the system of traceability will never function, because you have two different levels of government with two clear and distinct levels of responsibility. If we

do not have premise registry mandated, it will not happen.

Mr. Ernie Hardeman: But, in your opinion, Curtiss, does this do that? What is there that mandates in this bill?

Mr. Curtiss Littlejohn: It is enabling legislation, and our goal is that the minister hopefully will do this in the coming months.

Mr. Ernie Hardeman: Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for joining us today.

WORLD SOCIETY FOR THE PROTECTION OF ANIMALS, CANADA

The Chair (Mr. Bas Balkissoon): The next presenter is the World Society for the Protection of Animals, Canada, Melissa Matlow. Please state your name for Hansard. You have 15 minutes, and if you leave any time at the end of your presentation, we will allow questions equally across all parties.

Ms. Melissa Matlow: My name is Melissa Matlow, and I'm a programs officer for the World Society for the Protection of Animals.

Thank you, Chair and committee members, for allowing me this opportunity to speak on behalf of the World Society for the Protection of Animals. For those of you who are not familiar with our organization, we are the largest international alliance of animal welfare groups, and that's because we work in conjunction with more than 1,000 different member societies in 150 countries. Our mission is to raise animal welfare standards around the world through fieldwork and advocacy.

WSPA Canada is a registered charity. We have 37,000 supporters across the country, and 55% of those supporters reside in Ontario. Our organization is also a member of this government's provincial animal welfare advisory group because of our work with the government and stakeholders to significantly strengthen the Ontario SPCA act.

I am pleased to speak today about this very important bill, Bill 204, which I believe will greatly assist the industry and government in detecting, monitoring, reporting and responding to animal health hazards, but of course I'd like to take the majority of my time to discuss where we'd like to see the bill strengthened, and that is in the area of animal health promotion and disease prevention.

When OMAFRA proposed their intentions for this legislation last June, the discussion paper that was posted for stakeholder comment contained a very important section in it, section 3, entitled "Animal health promotion." It would have allowed for the establishment of regulations governing animal care and handling on the farm.

Unfortunately, this section is missing from the current draft of the bill, and I would greatly appreciate knowing why. Perhaps a member of this committee would be so kind as to share their understanding of this. But it was clearly the ministry's earlier intention to create a bill that

promoted better animal health and prevented disease rather than a bill that simply responds to the consequences of ignoring these very important objectives.

My colleague at the Animal Alliance of Canada already talked a lot about the connection between animal welfare and animal health, so I'll go into this only a bit. Poor animal welfare can result in animals becoming more susceptible to infections and more infectious. There's plenty of scientific evidence to prove this relationship, but despite the fact that animal welfare is so integral to animal health, the term isn't even mentioned once in this bill. We believe the ministry is, therefore, ignoring a very important tool at preventing animal health hazards and reducing food safety risks in a comprehensive manner.

The way we raise, transport and slaughter farm animals in Ontario has dramatically changed over the years, as it has elsewhere across North America. We are seeing larger numbers of animals confined on fewer farms, and this does create a bigger health concern. Confining large numbers of animals in small areas and in impoverished environments obviously creates a breeding ground for the emergence and spread of disease. But instead of reversing this trend and looking at how we can get to the root of the problem and changing farming practices, animals are routinely given doses of antibiotics to ensure that they don't get sick. This is a reason I know Ms. Levenson from Animal Alliance of Canada commented on the creation of superbugs. Everyone's aware of antibiotic resistance becoming an increasing problem. This is a major reason why the Canadian Committee on Antibiotic Resistance is calling for changes to farming practices to reduce the reliance on antibiotics. I just raise this issue even if it's outside the scope of the specifics in this bill, because it's a serious animal health issue that connects to human health, and I think it needs to be at least dealt with in the regulations.

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The link between animal health and animal welfare is well established scientifically and publicly accepted by national governments and international associations. I'll just name a few: the World Organization for Animal Health, the OIE, which was first established in the 1920s to control the spread of animal diseases and now has set animal welfare as its top priority in its strategic plan and sets animal welfare standards. It already has done so for the humane handling of animals for transport and slaughter, and it's currently looking at on-farm animal care standards. These are international guidelines that they're hoping national governments will adhere to.

Scotland established their Animal Health and Welfare Act back in 2006, and the European Food Safety Authority has a panel on animal health and animal welfare, which guides its policy decisions to effectively and comprehensively deal with animal health hazards by looking at animal welfare. By not recognizing this important link, we do feel that we are not going to be able to effectively respond to the root of the problem.

I'd like to also make a point just about legislation for farm animal welfare. There is no legislation for farm

animal welfare on the farm in Ontario. Yes, there are codes of practice that were established by the national farm animal care committee, but these are voluntary; no one assesses whether these codes are being met. While the Ontario SPCA act has been significantly amended and we applaud the government for amending this act, it establishes basic standards of care. By "basic," I mean provision of water, food, shelter, veterinary care; very basic that you would hope all animals would be granted, but excludes generally accepted practices of agriculture. I'm sure the definition of what's generally acceptable differs among industry in an organization like ours and among the public as well.

Ontario should be following the growing global trend to improve farm animal welfare. It's not just happening in European countries; it's happening with our closest trading partner in the United States. Several US states are considering laws to protect the welfare of animals on the farm. Michigan and Ohio are currently considering such changes. Arizona, California, Florida, Maine, Colorado and Oregon have all passed legislation or ballot initiatives that allow farm animals enough room to stand, lie down, turn around and extend their limbs—that's all we're talking about, very basic welfare measures.

Public opinion polls will tell you why those states have moved that way. The public is increasingly concerned not only about where their food comes from but how those animals are treated. They want to be ensured that a basic standard of care is being adhered to. According to a 2008 poll that our organization commissioned, 96% of people surveyed said it is important that farm animals be treated humanely. Establishing basic animal welfare standards would keep Ontario's agricultural industries competitive, and it would boost consumers' confidence, knowing that local food is produced humanely and safely.

While demand is growing for local, sustainable and humane food, the infrastructure and ability to supply it faces some challenges. Between 1991 and 2001, the number of provincially inspected slaughterhouses declined by approximately 40%. According to data supplied by the National Farmers' Union, the number of animals slaughtered in Ontario increased by more than three million, and the number of inspection hours decreased by 45,000 hours during this same time period.

I'd like to quote Ann Slater from the NFU, who called on the province to fix this problem in a 2004 press release: "The shortest and most direct chain reduces risk with fewer handlers, less transportation and less mixing of meat from several animals." I raise this issue because long-distance transport is a major issue for spreading diseases and creating an animal health hazard, and I think it's something that should be discussed when the regulations are developed for this legislation. So my concern is that I hope the bill keeps that window open for allowing that to happen.

Long-distance transport has long been recognized as a major threat to spreading disease. The European Commission's Scientific Committee on Animal Health and

Animal Welfare and the UN Food and Agriculture Organization have made a lot of statements about this threat. Even the US Government Accountability Office recognizes live animal transport as a bioterrorism threat.

In closing, I just want to say that in the bill we're concerned about the authority of OMAFRA inspectors. We'd like to see this authority broadened. Our current take on the bill: We believe that if an inspector is responding to an animal health hazard and they find an animal that's in distress and that distress does not constitute an animal health hazard, we're concerned that they wouldn't be able to relieve that animal of distress; that they would have to call the Ontario SPCA, which may not have someone available quickly. It is not adequately resourced across the province and doesn't have after-hours services. So we believe it would be a more effective use of government resources and also more humane to ensure that OMAFRA inspectors who are going to have the same qualifications to ensure that that animal is treated humanely—and euthanized if necessary—respond to that situation then and there. We want to make sure that authority is recognized.

As well, we hope that the bill will strengthen the fact that animal health inspectors will be the best suited to respond to animal emergencies that are not disease-related. For instance, when hundreds of thousands of animals are rejected at the border or a business goes bankrupt—like Pigeon King did a few years ago, where thousands of pigeons were just left—we think OMAFRA should be the overarching authority for making sure that issue is dealt with, not only effectively for preventing disease but also humanely. I think they would be in the best position to do this.

In closing, I'd just like to reiterate my question as to why the ability to regulate on-farm animal care was not included in the bill, as it was clearly OMAFRA's intention in the discussion paper. We encourage this committee to amend the bill to include this very important provision to ensure the health and welfare of animals from the farm right to slaughter.

The Chair (Mr. Bas Balkissoon): Okay, we probably have time for one quick question from each side. The government side.

Mr. Rick Johnson: Thank you for your presentation. You've raised a number of interesting issues that I'm sure we'll get a chance to consider during the ongoing talks here.

You spoke about transportation, and part of this bill refers specifically to the ability of inspectors to more closely monitor the transportation of animals to auction houses. Do you think it goes far enough?

Ms. Melissa Matlow: We would like to make sure the OMAFRA inspectors are also able to look at animal welfare issues, even if they aren't directly correlated to an animal health hazard issue; that's our concern. If an animal is suffering, it should be seen as evidence of perhaps a potentially greater problem happening. The way we read the bill is that they can only respond to animal health hazards when there is significant evidence

that that is occurring or actually has been reported, whereas if an animal is suffering, they wouldn't necessarily be able to relieve that animal of distress or examine the issue further.

The Chair (Mr. Bas Balkissoon): The official opposition. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. You bring up many different issues, but you quote a study where you say that 96% of the people surveyed said it's important that farm animals be treated humanely. Do you have any idea if that's something that's happening now in Ontario, or do you have concerns that it isn't happening—any statistics on that?

Ms. Melissa Matlow: Well, to combine your question, if I may, with Mr. Hardeman's question before about people being willing to pay, I think an amazing system that's in place in Ontario is Local Food Plus. It's taking off; it's very successful. It basically certifies food that is local and produced sustainably. It looks at ethical working conditions and that the animals are treated humanely. It's a one-stop shop: You feel good and leave the guilt behind. It's doing so well that it's not able to meet demand. The demand is so high that they're still looking for suppliers.

So there are great organizations like this. Obviously, we're in a role of asking people to buy humane food. We see the government's position as legislating minimal standards, basic standards.

The Chair (Mr. Bas Balkissoon): Mr. Hampton?

Mr. Howard Hampton: I want to offer you the opportunity to answer your own question. When the discussion paper went out, it had a section called Animal Health Promotion, yet as you point out, there is nothing in the bill, no section dealing with animal health promotion. So what do you think happened?

Ms. Melissa Matlow: I think the egg industry lobbied the government to take it out. We saw minimal standards of care that were supposed to apply to all animals in the Ontario SPCA act, and an exclusion was granted then because of pressure from the egg industry lobby groups to take that out.

Again, I just want to repeat those minimum standards of care: It's provision of water, space to turn around, shelter, veterinary care and adequate food—very basic; it's not a radical notion at all. I don't see why we can't have those minimum standards of care applied to all farm animals too.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be here.

1350

ONTARIO FARM ANIMAL COUNCIL

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Farm Animal Council, John Maaskant and Kelly Daynard. Please state your names for Hansard. You have 15 minutes. If there's any time left at the end of your presentation, we'll go to questions.

Mr. John Maaskant: Thank you. My name is John Maaskant. I'm a chicken farmer and chair of the Ontario Farm Animal Council. This is Kelly Daynard, our interim executive director.

The Ontario Farm Animal Council appreciates this opportunity to provide its expertise and recommend improvements and support regarding Bill 204.

OFAC represents 40,000 Ontario livestock farmers and related agribusinesses on issues related to animal health and welfare, and food safety. Our founding members include the Ontario Cattlemen's Association, Ontario Pork, Chicken Farmers of Ontario, Egg Farmers of Ontario, Turkey Farmers of Ontario, Dairy Farmers of Ontario and the Ontario Federation of Agriculture.

The content of this bill is obviously of great importance to our members, since it will have far-reaching effects on animal agriculture and food production in the province.

OFAC has long been on record as supporting the need for a provincial Animal Health Act. In fact, the council has been actively involved in the many proposals and discussions leading up to Bill 204. OFAC supports the overall intent of this legislative proposal; namely, to provide "a broad and enabling framework for the protection and promotion of animal health in Ontario."

OFAC believes that, with some modifications and considerations, the proposal as presented could give the province's agricultural industry and the Ontario government added ability to reduce animal health risks. Furthermore, OFAC believes that such legislation is timely and in keeping with initiatives in other provinces over the last several years.

It is our opinion that this proposed legislation, if properly implemented, could enhance and support the strategies and initiatives under way by commodity groups and businesses related to the prevention, detection and control of animal disease outbreaks and contaminations.

The council believes that incorporation and updating of other related acts, such as the Livestock Medicines Act and the livestock sales barn act, vis-à-vis animal health and disease reporting is a logical outcome of a new and inclusive Animal Health Act.

Recommendation and industry consultations: We are in agreement with other agricultural stakeholders on the necessity of industry consultations in the development of regulations to address areas of potential concern. We feel it's very important to have that consultation.

Definitions of hazards under the act: The proposed legislation must be consistent with and complementary to like-minded legislation and bylaws in other jurisdictions, be they municipal, provincial or federal. Clear definitions, reporting requirements and actions related to hazards are one example where industry consultation and agreement is a necessity in developing future regulations. While written into the act, "reportable hazard," "immediately notifiable hazard," "periodically notifiable hazard," "prescribed incident" and "finding referred to in section 9" are not defined or listed. The concern is the impact of notifiable hazards to our province versus outside juris-

dictions. Inconsistencies will have animal, public health and economic consequences to the province. Particularly in crises situations, it's imperative that actions not be impeded by jurisdictional barriers or inconsistencies.

Given that the act will have the greatest impact on the province's agriculture sector, qualifications for the Chief Veterinarian for Ontario and for the deputy chief veterinarian for Ontario should be mandated to have farm animal veterinary experience.

The act states that "a regulation may adopt by reference ... a code," protocols, etc. Due to the potential impact on accepted farming practices, the regulations must adhere to recognized industry guidelines and be limited to health-related situations. Industry input is a necessity in adoption of regulatory standards and guidelines.

Regulations under the act should be limited to emergency measures and situations involving the containment and remediation of animal health hazards. An amendment to the act to clarify the focus of the regulations, as stated above, would enhance the act.

While the act does provide limited compensation for costs associated with orders issued under the act, such measures are considered inadequate. To provide for fair compensation, compensation provisions should be expanded to include adequate compensation for the direct costs of quarantine, removal, testing, disposal or storage of animals and/or animal products, as well as coverage for site cleaning and disinfection. An appeals process for decisions related to compensation should be written into the proposed act.

Any legislation enabling a traceability system must be flexible enough to accommodate all existing programs and those that may soon be adopted by the commodity sectors. Such a framework must accommodate both mandatory and voluntary programs. Regulations should be triggered at the request of industry stakeholders. It would be counterproductive to require commodity programs to be retooled to meet post-development legislation and regulations.

Finally, we believe that regulations, standards and procedures must be science-based and correspond to existing protocols.

OFAC will continue to remain actively engaged in this important legislative initiative, and we request the committee to consider our recommended improvements to the act.

Respectfully submitted. Thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you. We have about two minutes for questions. The official opposition, Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much, John, for your presentation. I just wanted to quickly touch on the veterinarian. I think you made a very good point, making a recommendation that there must be a connection with agriculture and livestock on farms for the chief veterinarian. I want to say that our present chief veterinarian has all those experiences.

My concern is more with the chief veterinarian. I don't know whether your association noticed that. The ability

is, by regulation, for the minister to increase or decrease or set the standards of the responsibility or the authority of the chief veterinarian. It would seem to me that that leaves the door open that at some point in time, if there is a need for the decision to get rid of a whole area of livestock at great expense to the province, the minister could tell the veterinarian, "No, that's not what we're going to do." Would that be a concern to OFAC?

Mr. John Maaskant: I'll ask Kelly if she has an answer because, frankly, I don't.

Ms. Kelly Daynard: We're aware right now that this is enabling legislation, and we know that there is a pile of details to be worked out. I would say that we have full confidence in the Chief Veterinarian for Ontario right now, and we would really hope that we would have input at any stage of the game if a decision like that was to be made.

Mr. Ernie Hardeman: The question really would be, once we have a competent and qualified chief veterinarian who's going to make these decisions on what needs to be done, do you see any point in time where the minister should have the authority to take that authority away from that individual? Incidentally, they don't have it for the medical officer of health. The Minister of Health doesn't have that authority.

Mr. John Maaskant: Well, it would seem unlikely to me. To me, it would be responsible to keep that authority, and I would have difficulty seeing where that could be justified, especially if there's consultation.

Mr. Ernie Hardeman: Thank you very much.

The Chair (Mr. Bas Balkissoon): Mr. Hampton.

Mr. Howard Hampton: We just heard from the World Society for the Protection of Animals saying they're disappointed that there are no animal health promotion measures in the bill and it doesn't establish a traceability system. It says, "The minister may," which also means the minister may not. If you have those two things missing from the bill, what, in your mind, is in the bill?

Mr. John Maaskant: The bill is enabling. That's the way we see it. It's enabling the kind of activity that is happening. These are trends that our whole food safety program—that most of our commodities are doing. Traceability is an initiative that everyone is looking at and dealing with. All these things are happening and they're needed. They're desired by consumers, and we're responding to that. To me, it doesn't need to be required; it's enabled, and that's the important part. If I've missed anything, maybe Kelly can—

Ms. Kelly Daynard: I would also like to suggest that in many of the commodity associations, like in the ruminant animal sector, national identification is already mandatory; it's been here since the year 2000. It's illegal to ship a cloven-hoofed animal in Canada without an ID tag in its ear. To add a new system, in this case, would certainly conflict with the national system that's already in place.

1400

The Chair (Mr. Bas Balkissoon): To the government side. Mr. Johnson.

Mr. Rick Johnson: Thank you for presenting today and for putting out your recommendations in such a nice, clear, concise fashion. It's much appreciated. I'd just like to point out, I think under section 64 of the bill, 3(e), which says, "The minister may make regulations

"(e) establishing committees to provide advice to the minister or the chief veterinarian" on any matter.

The minister, I believe, has been quite clear that having committees set up to work on the regulations is one of the things that the government's planning to do.

You talked a few times about this being enabling legislation. What do you feel that this will enable? When you talk about enabling there are questions raised that it won't do something, but what do you think it will enable the sector to do?

Ms. Kelly Daynard: I think the one thing we look at as being the biggest advantage to this bill is allowing systems to get moving quicker in the case of an animal health outbreak. Right now, we have to wait for verification of the disease, and that can take a few days. Sometimes in the case of, say, foot and mouth disease, you don't have a few days; you have a few hours before that disease can really take off. I think that this sort of legislation will really help speed that process up and protect our systems.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time to be here today.

CANADIAN COALITION FOR FARM ANIMALS

The Chair (Mr. Bas Balkissoon): The next deputant is the Canadian Coalition for Farm Animals, Stephanie Brown. Please state your name for Hansard. You have 15 minutes, and we'll allow questions if you have any time left over.

Ms. Stephanie Brown: My name is Stephanie Brown; I'm with this Canadian Coalition for Farm Animals. Our coalition is dedicated to promoting the welfare of animals raised for food in Canada through public education, legislative change and consumer choice. We appreciate the opportunity to speak today, and we are on the record in support of the intent of the act: safe food and human and animal health in Ontario.

One of the purposes of the bill is subsection 1(c), "the regulation of activities related to animals that may affect animal health or human health or both;"

Ladies and gentlemen, animal health is tied to animal welfare. As the government's June 18, 2009, discussion paper for this legislation noted, "The handling of farmed animals and the condition of their environment can have a direct impact on the health of the animals." Poor welfare results in stress, making animals more prone to infectious disease. It is no coincidence that many factory-farmed animals in Ontario are fed low-dose antibiotics as a matter of course. The drugs keep the animals alive.

It was anticipated that Bill 204 would address the tie between animal health and animal welfare. But no,

animal welfare is not a priority in the act. It is ignored completely.

The animal health/animal welfare link is recognized in numerous jurisdictions. Chief veterinary officers from around the world, members of the World Organization for Animal Health or the OIE, recognize the connection. The veterinarians have incorporated animal welfare as a priority in the strategic plan of the international organization, adopting animal welfare standards as part of their program. The European Union recognizes animal welfare as part of animal health. Their strategy is motivated by public health concerns and animal welfare concerns. Internationally, there is a move toward legislative on-farm welfare standards.

The European Union, some European nations and some state governments in the US are legislating the treatment of animals on farms and phasing out intensive confinement systems common on Ontario farms. At the same time, international food retailers are establishing welfare standards to ensure consumer confidence.

Animal industry groups in Ontario do not want the Animal Health Act to include on-farm standards because, they say, the voluntary codes of practice and the OSPCA act suffice. In fact, the OSPCA act covers only basics like provision of food, water and shelter. The act exempts on-farm practices, including intensive confinement practices and animal handling methods.

To be clear, industry is not honest when it claims the OSPCA act covers on-farm practices. It does not. There is no legislation in Ontario to ensure animal welfare on the farm. The voluntary codes of practice do not suffice either. The province of Ontario is responsible for on-farm practices, yet federal and provincial governments have deferred much of their authority to the codes, which are developed by industry-dominated committees. The codes are not audited, and there is no offence for not complying with their minimal standards.

The beef and pig codes were written 18 and 16 years ago, respectively. Though attitudes change and new scientific information becomes available, the codes remain static. The codes legitimize outdated practices, justifying the status quo as good animal care when it is not.

Bill 204 recognizes a provincial traceability system, section 33, as necessary to facilitate trade. Should an animal health crisis arise and a product cannot be identified and traced, it would be a trade deterrent. The same can be said about animal welfare, which is destined to become a trade issue with nations with high animal welfare standards.

The province should exercise its authority to monitor animal health and welfare on farms. Regulations should be more than voluntary codes, which lack legal status in the province. Ontario should show solid leadership in the treatment of farmed animals by regulating on-farm standards in the Animal Health Act.

The Livestock Community Sales Act is repealed with the introduction of the Animal Health Act. The new act should regulate conditions at assembly yards and sales

facilities, including provision of euthanasia when animals are sick or injured.

In addition, the act should be amended to provide an enabling framework to provide for non-disease emergencies such as barn fires, border closures or bankruptcies of major farms. Provision of such regulations would further the goals of the Animal Health Act for food safety, and for human and animal health.

Our recommendation, therefore, is to amend the Animal Health Act to provide OMAFRA an enabling framework to regulate animal welfare on farms and at assembly yards and sales facilities, including provision of euthanasia when necessary; and to provide for non-disease animal emergencies.

Thank you for your consideration.

The Chair (Mr. Bas Balkissoon): We've got about two minutes and a little extra for questions. Mr. Hampton?

Mr. Howard Hampton: A couple of references have been made about the European Union. I wonder if you can enlighten us a bit more about what the European Union is doing in terms of animal welfare and its connection to animal health.

Ms. Stephanie Brown: The European Union, as a union, has put forward a couple of pieces of legislation, one of which, in 2012, will ban the use of battery cages for laying hens; in 2013, it will ban the use of sow stalls. They have also made a number of important regulations with respect to transport, limiting the numbers of hours that animals can be transported—12 hours for ruminants, and eight hours for monogastric animals, which are pigs, horses and poultry; and if the truck is not outfitted with water etc. We find that in Canada, the trucks are not. So on a par basis, we would limit transportation to 12 hours. In Canada right now, 52 hours for ruminants is allowed; 36 hours is allowed for monogastric animals.

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So they are looking at a number of issues, taking into consideration the health and welfare of animals, and scientifically basing it on experts from the University of Cambridge who have studied this in great depth and have come forward with these recommendations which have been then adopted by the union.

Mr. Howard Hampton: That's what the union has done. What about individual European countries?

Ms. Stephanie Brown: A number of them have done a number of different things. For instance, in the United Kingdom they've banned veal crates. They have banned battery cages in a number of nations: Austria, Germany, Switzerland, Sweden. Sow stalls have been banned as well, I believe, in some nations; I just can't name them all off right now. But the individual nations have the right to make unilateral decisions on their own, and have done so. They want to move ahead quicker than what the union decision has been, because they gave a 10-year phase-in of the new standards, which is reasonable, but some nations have said, "We can do this quicker and we need to do it quicker," and have done so.

The Chair (Mr. Bas Balkissoon): To the government side.

Mr. Rick Johnson: Thank you for your presentation. You've covered a number of issues that you are very passionate about. Ministry staff is here, and I know that we'll be talking about some of the very good issues you have raised. I thank you for your presentation. Your concerns are noted. Thank you for your recommendation.

The Chair (Mr. Bas Balkissoon): The official opposition. Mr. Miller.

Mr. Norm Miller: I know Mr. Hardeman has a question as well.

Thank you for your presentation. You mentioned that the OSPCA act does not cover on-farm practices. In the rare cases where animals are not being cared for on farms, it was my understanding that the OSPCA did investigate and, I assume, deal with the situation. Am I correct?

Ms. Stephanie Brown: Indeed they can in emergency situations. If animals are being starved to death or not given water, yes, they can move in and they do move in, which is very important. But my reference is to the standards, the way animals are kept on farms, in terms of their housing, for instance. An example would be sow crates, where a sow is kept in a crate barely larger than the size of her body, where she cannot turn around for four months during her pregnancy. This is totally allowable; it's not able to be addressed under the OSPCA act.

Mr. Norm Miller: So the OSPCA just investigates in emergencies?

Ms. Stephanie Brown: Exactly.

The Chair (Mr. Bas Balkissoon): Mr. Hardeman?

Mr. Ernie Hardeman: Right at the end of your presentation is, "Provision of such regulations would further the goals ... for food safety and human and animal health," that it needs to go beyond the situation, and you recommend to provide for non-disease animal emergencies.

Could you explain to me how you would envision a program to deal with those? I've been to a lot of barn fires and so forth, and the last thing they're looking for is the provincial government to tell them where they should take the cows; they're talking to the neighbours and they are moving them to other premises. How would you envision that they could do that?

Ms. Stephanie Brown: I would envision that there could be huge problems, and I'm just looking for solutions.

Mr. Ernie Hardeman: Me too.

Ms. Stephanie Brown: I wouldn't presume to provide answers to how OMAFRA might do this, but if there were, for instance, a closure of the border—we ship many thousands of animals every week across the border, and if that were suddenly closed, where are those animals going to go? Our farms don't have the capacity to hold the normal 40,000 pigs, let's say, that might be exported per week.

I'm just saying that there are issues out there that are not easily solved, but somebody needs to do it. The

OSPCA, quite frankly, on charitable dollars, doesn't have the capacity to be able to look after 40,000 animals. So who do you call?

People often look to government and think, well, OMAFRA is the logical choice, but if they're going to have that role, they need to have the ability to carry it out. In the Pigeon King fiasco referred to by Mrs. Matlow, there were multi-thousands of pigeons that nobody wanted on very short order. What do you do with thousands of pigeons? So—

The Chair (Mr. Bas Balkissoon): Thank you very much. I'm sorry. We're out of time.

NATIONAL FARMERS UNION

The Chair (Mr. Bas Balkissoon): The next presenter is the National Farmers Union, Ann Slater. Please state your name for Hansard, and you have 15 minutes. If there's any time left at the end of your presentation, we'll go to questions.

Ms. Ann Slater: My name is Ann Slater. I'm here on behalf of the National Farmers Union. I'm a regional council member of the National Farmers Union, and I'm an organic farmer from up in the northwest corner of Oxford county.

The National Farmers Union supports the broad policy goals of animal health and food safety. Farmers' livelihoods are dependent upon producing healthy and safe food. The NFU supports government efforts to take responsibility for ensuring that Ontario citizens have access to a safe and secure food system, and to protect the health of the animals that are an integral part of many of our farms. We have been critical of moves to deregulate and cut back on food safety programs and inspections.

That said, the National Farmers Union has some basic concerns about the manner in which the current Animal Health Act, Bill 204, is being brought forward and seemingly rushed through the legislative process when there is no clear and pressing reason to do so. Government laws and regulations that are not thought through can and do have negative consequences for farmers.

The NFU has recently been involved in the issues surrounding organic turkey production for quota-holding producers in Ontario. In 2008, the Turkey Farmers of Ontario, in their role of regulating turkey production in Ontario, mandated that all turkeys in Ontario had to be raised under a fixed roof with no outside access. This was done under the rubric of preventing disease and cross-contamination from wild birds. Under the Canadian organic standards, livestock, including poultry, must have access to the outdoors. There is no evidence that organic production has any link to disease outbreak or disease spread; in fact, there are studies that suggest the opposite is true. In essence, this rule by TFO would have ended certified organic production of turkey by Ontario quota-holding farmers.

This decision was upheld by the farm products marketing commission, and it was only through the inter-

vention of the minister that this decision is now being changed and a compromise trying to be pulled together. It is instructive to consider the words of TFO chair Ingrid DeVisser in a *Better Farming* magazine article from November 20, entitled "Turkey Farmers Ease Outdoor Restriction for Organic Producers." Quoting DeVisser, the article states that in the end, "It came down to politics, really." DeVisser further states, "For us it has always been about disease prevention and mitigating risks." So even after the minister intervened politically, the TFO is stating that organic production poses a health risk, that the decision to not restrict organic production was political.

The reason this real-life situation troubles the NFU so much in the context of the Animal Health Act is that much of the language used to justify the TFO's decision to end certified organic production is exactly the language contained in the act. Without the timely intervention of the minister—which came after a public campaign in which the National Farmers Union was a participant, along with the Organic Council of Ontario, the Ecological Farmers Association of Ontario and other organizations—certified organic turkey production would still be prohibited by the Turkey Farmers of Ontario.

It is important to consider this in relation to Bill 204. As the legislation is currently written, we could see practices that are outside of mainstream livestock production challenged and possibly restricted, especially in the face of an outbreak or other crisis. This could lead to restrictions on certified organic livestock production and a variety of other types of production where providing natural, healthy outdoor access is a major part of the raising of that livestock; this at a time when increasing consumer demand for organic meat, grass-fed poultry and other alternative production practices are actually providing positive returns for some Ontario farmers.

1420

The NFU recommends that the act be amended in such a way that it is made clear the legislation is not intended to prefer one food production method over another and that only sound, non-biased, scientific evidence will be used to determine what might prove to be a real animal or human health risk. As well, without clear definitions of the terms used in the act, the likelihood of problems will increase. With this in mind, the NFU recommends that the regulatory definitions be encoded in the act so it is clear what is being supported. "The devil is in the details" is a truism that must be kept in mind; the best intentions, without clear language, could lead to creating more problems than what we hope to solve.

Another concern we have at the NFU is the use of the term "discretionary" in relation to payments made to affected farmers if they have their livestock ordered destroyed, either as a preventive measure or with respect to an outbreak. Destruction of livestock could mean a complete loss of livelihood for farmers, and if compensation is discretionary, it could well create a situation whereby well-meaning farmers might be afraid to come forward with disease concerns. The term and the intent of

“discretionary” needs to be removed from the act. The system must be properly funded, or there is the possibility of someone, somewhere making a bad decision because they feel they have no other option if they are going to protect their livelihood.

As a province, we must show our commitment to animal and human health. The cost of an outbreak that might have been prevented by adequate and secure compensation far outstrips any reason there might be for making compensation discretionary. Governments come and go, but legislation is in place through them all. Trying to fix a problem like this after the fact would simply create an unacceptable risk to the livelihoods of farmers, agri-food workers, not to mention the even more unacceptable risk of endangering the health of animals and people. Thank you.

The Chair (Mr. Bas Balkissoon): Okay, we’ve got about two minutes and a couple of seconds per question. We go to the government side.

Mr. Rick Johnson: Thank you for your presentation. You’ve raised a number of concerns, obviously, from your side. As I’ve stated before, the staff is here to make sure that notes are taken on this. You talked about the legislation not being intended to prefer one food production method over another. Could you just expand upon that?

Ms. Ann Slater: We’d like that to be clear. I’m an organic farmer, and within the National Farmers Union we have a lot of organic farmers. We also have a lot of other farmers who may not be organic but are still using production practices that have their animals outside for much or all of their life. And I think our experience has been that sometimes, especially when crisis situations arise, we get blamed or we get asked to move our animals inside, so it becomes that our way of producing food is not seen as an acceptable way, especially in times of outbreaks. But even beyond that, there was no outbreak that brought the Turkey Farmers of Ontario to decide to put all the turkeys inside. I think we want to be sure that alternative, what we see as healthy ways of raising livestock and something that consumers are looking for, that that continues to be allowed and that this in no way impedes on that.

Mr. Rick Johnson: You’re looking for fairness.

Ms. Ann Slater: Yes.

The Chair (Mr. Bas Balkissoon): Okay. We’ll move to the PC side. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for the presentation. It’s great. I think it will work a lot better if we can get two people from Oxford in the same room with folks. I’m sure that we’ll come up with a better answer, so thank you very much for being here.

I want to start off by saying that I share your concern about the fact that—and we’ve had other presenters tell us—there’s no need for haste. We all support the principles of why the bill is being introduced and what needs to be done, but we were hoping, on the opposition side, that we would have a thorough discussion of that and have full consultations with the people in rural

Ontario. So we could have actually spoken to you in Woodstock, London or Stratford as opposed to here in downtown Toronto, and I think that all could have been done, and I do believe we would have come up with a better piece of legislation.

The thing that I really wanted to go to is the word “discretionary,” as you put it forward, that it deals with the funding, and that word “discretionary” means that the minister may or may not give payment. When I asked the minister about that, the suggestion was that it’s discretionary as to how much and under what conditions it’s paid—but not that she was considering not paying it. But it does seem to be missing the fact that the possibilities are that it could be a lot of years, and it’s guaranteed that the present minister will not forever be the minister. It’s quite possible that at some point in time it’s someone else who doesn’t have the same idea of what needs to be done.

Wherever the word “discretionary” is put in place, we have to assume that it could be someone who totally disagrees with this piece of legislation who is going to make that decision. I share the National Farmers Union’s position on that.

Also, we’ve heard a lot about it being permissive legislation. I wonder if you could tell me what your feelings are about whether this is permissive, and who it’s permissive for.

Ms. Ann Slater: Permissive in—

Mr. Ernie Hardeman: Permissive legislation usually assumes that the people were governing with it. It’s their choice of whether they want to avail themselves of it. It seems to me, and maybe I’m wrong, that it gives all the authority and the permissiveness to the minister, and everybody on the other side gets told what to do—

The Chair (Mr. Bas Balkissoon): I have to cut you off because it took too long to ask the question, so I can’t get the answer.

Mr. Ernie Hardeman: Thank you very much for providing me the opportunity to rant.

The Chair (Mr. Bas Balkissoon): Mr. Hampton?

Mr. Howard Hampton: In not just your presentation, but in the others that we heard earlier, three things jump out. It seems everyone is concerned about traceability. This bill will not establish a traceability system. It says the government may or it may not. The government is in that position anyway without this bill: It may or it may not.

The second issue is animal welfare, which other presenters have said is not in the bill.

The third issue, which I think you have captured, is the discretionary aspect of compensation. I want to take you back to your first point. You said, “What’s the rush” if these things aren’t dealt with? Why do you think there’s a rush?

Ms. Ann Slater: I’m not sure why there’s a rush. There may be a push coming from some other parts of the agricultural sector to move this along. Our concern is that with the rush you end up with poor legislation. Mr. Hardeman was just talking about how we had to come to

Toronto on very short notice on one afternoon to be able to talk about this and it cuts out hearing from sort of a broad spectrum of farmers. I'm not sure whether the rush is coming from another part of agriculture, if it's coming from this government or if it's coming because these kinds of legislation are coming in in other places.

The Chair (Mr. Bas Balkissoon): Thank you for being here today.

ONTARIO FEDERATION OF AGRICULTURE

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Federation of Agriculture: Wendy Omvlee and Peter Sykanda. Please state your name for Hansard, and you have 15 minutes. If there's any time left, we'll allow questions.

Ms. Wendy Omvlee: Thank you. My name is Wendy Omvlee.

The Ontario Federation of Agriculture, OFA, appreciates the opportunity to appear before this committee to present our recommendations regarding Bill 204, the Animal Health Act. The OFA is the largest voluntary general farm organization in Canada, with over 38,000 farm business registrations and 30 organizational members and affiliates, representing most provincial commodity groups. We are, and have always been, a farmer-led organization. When you hear from the OFA, you are hearing the voice of farmers from all over the province. For example my husband, Peter, and I have owned and operated a dairy goat farm in Haldimand county for the last seven years. We have over 500 head, including 300 milkers.

In general, the OFA supports the goal of this legislation. There is no denying that farm animal disease outbreaks, wherever they happen to originate, can have economic repercussions to local farmers, and on rare occasions can have tragic consequences to public health.

The OFA agrees that a rapid response to an animal health emergency is essential to protecting human health and animal welfare, maintaining economic stability within the agricultural sector and ensuring continued consumer confidence in Ontario's food supplies.

1430

The implications of Bill 204 are of great importance to a significant number of our members. While the OFA supports the goals of this act to reduce risks to animal health, there are a number of points we believe require amendment and clarification before we can fully endorse the legislation.

OFA recommendation: Clear and harmonized definition of "hazards." The OFA commends the act for recognizing the need to learn from experiences in other jurisdictions. It is imperative that Ontario legislation be harmonized with similar municipal, provincial and federal legislation existing in other jurisdictions in order to ensure a rapid emergency response with reduced administrative barriers across multiple jurisdictions. This consistency is particularly important with regard to the

definition of "notifiable hazards." Regulators are strongly advised to consult with the agricultural industry when developing reporting requirements and actions within a regulation.

Another recommendation: Farmers must not be forced to bear the cost of traceability initiatives. Trace-back systems likely provide more benefit to the consumer than the farmer. Costs associated with introducing traceability must have a mechanism to enable transmission down the market chain to be absorbed by the consumer, or otherwise covered by government assistance programs. Traceability initiatives should be specific to and designed compatibly with individual commodity circumstances. They should move forward so as to not put Ontario animal producers at a competitive disadvantage relative to other national or international producers.

Furthermore, legislation must recognize that only certain sectors will benefit from provincial level traceability programs, while other sectors would benefit from being organized under national and perhaps international traceability programs. Traceability initiatives should be driven by demand and should be reflective of each commodity group's capacity to adopt best practices and standards.

Should regulations governing traceability become mandatory, any proposed traceability systems must be flexible to accommodate existing programs and any programs currently being proposed by commodity groups.

OFA recommendation: Take all measures to reduce the regulatory burden. OFA recognizes that immediate reporting of certain animal health hazards is a crucial first step to organizing a response to an emergency and minimizing the negative impacts to the agricultural sector.

Farmers, however, are already subject to considerable administrative and reporting responsibilities. These administrative responsibilities carry with them costs that are not necessarily reflected in the price received by the farmer. As such, any reporting may be seen as a potential and significant burden. The OFA strongly recommends that the ministry establish a mechanism for mandatory reporting that does not invoke significant additional costs and does not contribute to further burden to farmers.

OFA recommendation: Clearly define the scope of the legislation to animal emergencies. The stated goal of this proposed legislation is to safeguard the province from the negative health and economic consequences associated with serious animal health events, particularly emergency disease outbreaks. The scope of any new on-farm animal care and housing standards or regulations should be restricted to animal health emergency situations that require a rapid response to control and contain disease outbreaks. These standards and regulations must be based on the best available science and be consistent with normal animal agricultural practices. If broad animal care regulation is being considered beyond on-farm animal health care emergencies, we strongly recommend thorough consultation with livestock and animal agriculture stakeholders.

The OFA believes that the OSPCA act and the national codes of practice for animal care and handling provide sufficient direction regarding animal welfare standards during normal farm practices, and we recommend that the development of any further regulations be restricted to animal health emergencies only.

OFA recommendation: mandatory consultation with industry stakeholders. The OFA recommends that OMAFRA continues to consult with general and commodity-specific agricultural organizations as it moves forward with the development of regulations. Consultation and consensus can be a difficult process, and while we appreciate that the act includes provisions for the formation of an advisory committee, we recommend that the inclusion of industry representatives be mandatory.

The OFA coordinates with and trusts the opinions of other farm organizations. These are organizations that, like the OFA, are made up of members who know and work directly with farm animals on a daily basis. Their knowledge and expertise should be trusted and sought after for all matters relating to farm animal health and welfare.

Once again, thank you for this opportunity to address the committee. We look forward to continuing to work with the Ontario government to develop fair and equitable regulations under this act.

The Chair (Mr. Bas Balkissoon): Thank you. We've got two and a half minutes per side. We'll start with the PCs. Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation—a very well-thought-out one.

I want to just go quickly to a paragraph on your second page: "Furthermore, legislated traceability should apply to only certain sectors that will benefit from provincial level traceability.... Other sectors would benefit from being organized under national and perhaps international traceability programs."

We've had a lot of discussion that this bill really doesn't do much traceability. It has just a single paragraph authorizing that the minister may, by regulation, set up a traceability regime.

If we're waiting for the federal, is there any reason why, from the OFA's perspective, we need any provincial? If the federal is only good for some, wouldn't the federal be good for all? Have you got any idea as to why we would need a separate one for the province if we're collectively working together with the federal government to get one federally?

Ms. Wendy Omvlee: It's a good point. I know for me, personally, we ship milk to Hewitt's Dairy, for example, which is very local and dealing with a limited number of families. So you may not need as huge of a whole system set up for a local dairy such as Hewitt's Dairy as you would perhaps need for, say, pork, which is very North American and even international. But it's a good point to consider.

Mr. Ernie Hardeman: Thank you very much.

The Chair (Mr. Bas Balkissoon): Mr. Hampton.

Mr. Howard Hampton: I too want to thank you for your presentation, because I think it highlights a number of areas where in fact the legislation is vague, and, if you'll pardon the expression, if legislation is vague, you may end up buying a pig in a poke: You don't know what the eventual outcome will be.

So I want to focus on the traceability issues. The bill is being advertised as creating a traceability system for Ontario, but all it says is that the minister may participate or may develop a traceability system, which also means the minister may not, and you don't know what's in that traceability system—who's going to pay the cost, what the requirements are and what the regulations are. So, tell me, what would you like to see in the traceability system?

Ms. Wendy Omvlee: Well, we are a general farm organization, so with commodity-specific issues, it is the commodities that decide which route to go, and that's what we support. So I'm not going to speak on behalf of chicken or pork, because they could be very different in how it's set up and managed and that type of thing.

Mr. Howard Hampton: If the result is—and I think this is the result, because I listened to some of the speeches in the House—that this is all deferred to the federal government, and the federal government has to consult with Quebec, Manitoba, British Columbia and the Maritime provinces, don't you think we're going to be a long way away from a traceability system?

Ms. Wendy Omvlee: It could very well be.

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move to the government side. Mr. Johnson.

Mr. Rick Johnson: Thank you for your presentation and your recommendations. In particular, I want to thank the OFA for being involved in the ongoing process. An earlier presentation made reference to the fact that this appears to be rushed, but in fact this process, developing this legislation, I know, has been going on since 2006, and in large part this is a response to the last time the borders were closed with the last outbreak of BSE, which was a number of years ago. It's something that hasn't been rushed into; we've taken our time to develop it. I know that you were one of the 34 organizations that were involved in this process, and I thank you for doing that.

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Regarding traceability, it says in the act that the minister "may." This is enabling legislation. If the federal government does not come forward, at least we're going to be in a position where we can move forward on this, because when I go into a store and I see that it's grown or comes from Ontario, we'll know that it's safe, and it'll be because of the process that we've put in place on this.

Once again, I thank you for being so clear in your recommendations, and I know, as I said earlier, that ministry staff is here and will listen very carefully to it. Also, I'd just like to say thank you, on page 1, for using the word "harmonized." Lately, around here, it's been a bad word, but it was nice to see. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much for taking the time to be here.

ONTARIO LIVESTOCK AND POULTRY COUNCIL

The Chair (Mr. Bas Balkissoon): The next presenter is the Ontario Livestock and Poultry Council, Mr. Gordon Coukell. Please state your name for Hansard. You have 15 minutes like everybody else, and if there's any time left, we'll allow questions from all parties.

Mr. Gordon Coukell: Thank you very much, Mr. Chairman. I'm Gordon Coukell, chair of the Ontario Livestock and Poultry Council.

The Ontario Livestock and Poultry Council was formed in 2005 to provide a forum to facilitate the development and coordination of an Ontario strategy to deal with foreign animal disease and other transmissible livestock and poultry diseases. We represent 28 regular members and five ex-officio members, including all livestock and poultry commodity groups, and associations representing farm service, feed, processing and veterinary sectors. There is a membership list attached for your information.

Over the past four years, our activities have focused on advocating for the development of a provincial Animal Health Act, encouraging the creation of the Office of the Chief Veterinarian for Ontario and adequate funding for the Animal Health Laboratory.

In the event of an animal disease outbreak, many aspects of the Ontario economy could be affected, beyond farmers. These include agricultural services, such as feed suppliers and meat and dairy processors, as well as non-agricultural sectors such as tourism. The agri-food industry contributes more than \$33 billion to the Ontario economy and employs about 700,000 people. We need to be proactive and ensure the appropriate risk prevention practices and mitigation strategies are in place to protect this vital component of the provincial economy. Provincial animal health legislation is an essential component to enable industry and government to work together on animal health and biosecurity initiatives.

Ontario is the largest producer and processor of livestock and poultry in Canada, yet it is currently the only province without animal health legislation. Presently, in Ontario, the Canadian Food Inspection Agency is the only entity with legal powers to control the movement of animals and order eradication actions in the event of a reportable animal disease—and then, only once the disease has been confirmed. One of the current challenges is how to enact control measures in the event of a suspected disease outbreak or for a disease which is not deemed reportable but may be economically devastating to the livestock or poultry groups affected.

Although federal legislation provides coverage for reportable diseases, and the Ministries of Health and Agriculture, Food and Rural Affairs provide legislative coverage for food safety issues, there are serious gaps in the present system that animal health legislation and the enactment of regulations could overcome. These include the control of activities during what's known as the grey period: the period between when a disease is suspected but not confirmed.

The members of OLPC had an opportunity to be involved in the consultation process while this bill was being developed, and submitted our views last summer. We have reviewed Bill 204, and we appreciate the further opportunity to provide input. Overall, the OLPC is in agreement with the suggested purpose as laid out in the bill. As was noted previously, we have urged the government to develop animal health protection, prevention, detection and recovery-from-hazards legislation for a number of years.

There are specific areas which we would particularly like to emphasize and comment on. Number one, Office of the Chief Veterinarian for Ontario: We feel it's extremely important that the Chief Veterinarian for Ontario be recognized as an essential and equal component of Ontario's emergency management authority along with the Commissioner of Emergency Management and Ontario's chief medical officer of health. The Office of Chief Veterinarian of Ontario must also be given the authority and resources necessary to effectively implement Ontario's animal health strategy. While this position and its role is noted in the bill, we would further recommend that criteria be added either to the bill or in resulting regulations specifying that the individual should have been a practising veterinarian for at least five years, with experience in a large animal or poultry practice.

Second point, industry advisory committee: OLPC has advocated for a standing industry advisory committee for the Office of the Chief Veterinarian for Ontario consisting of appropriate senior animal health officials as well as representatives from the farming and other agriculture industry sectors. We strongly believe such a committee is fundamental to effective implementation of the act and the development of appropriate and responsible regulations.

There is currently a reference in the bill that the minister may appoint committees as deemed necessary. However, to ensure that this advisory committee is established and maintained in the longer term, we recommend that it be specifically noted within the act, as has been done with the Lake Simcoe Protection Act, the Ministry of Natural Resources Act and the 2002 version of the Nutrient Management Act.

Third point, hazards: We support the designation of "hazards" versus "diseases" in the wording of the proposed bill. This may allow action to be taken prior to a confirmed disease outbreak, resulting in a faster response time and a reduction of the economic impact. In our view, the structure of Bill 204 will provide the provincial government and the livestock and poultry industry with the required tools to better manage disease outbreaks that could threaten the integrity of the food supply and animal and human health. However, we feel it is important that the list of hazards and their classification as reportable, immediately notifiable and periodically notifiable be developed through consultation with industry stakeholders. This is where the existence of a standing industry advisory committee would provide very beneficial input to the CVO in developing regulations and categorizing the hazards.

Compensation: Within the proposed legislation, we strongly support the inclusion of a framework which will enable the minister, in consultation with the industry, to make regulations regarding fair compensation for direct and specified indirect losses. We do not support including specific levels of compensation within the proposed legislation, as this will restrict the ability to easily adjust future compensation levels in response to changing market values. We support the development of regulations relating to fair compensation for direct and specified indirect losses for any livestock or poultry owner whose animals have been ordered euthanized by government for the purpose of disease control.

Fifth point, licensing, registration, permits and investigations: OLPC agrees with the proposal to repeal the existing Bees Act, Livestock Community Sales Act and Livestock Medicines Act in the future and incorporate their provisions into Bill 204. We recognize that provisions for registration, licensing and inspection currently contained in the above acts to be repealed must be included in Bill 204 in order to cover their responsibilities under this legislation.

Sixth point, traceability: Premises registration of all agricultural operations and full traceability for the livestock and poultry movement is a goal to work towards and one which OLPC supports and a key element of agricultural biosecurity. However, the individual sectors currently have varying levels of identification and tracking in place and it will take considerable time and resources for full traceability to be achieved.

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We agree that traceability is a valuable component of a strong animal health system and support the current provisions within the bill for the development of regulations. The regulations must allow for incorporation within a national system and be compatible with existing industry traceability initiatives. Future regulations must be developed in conjunction with industry consultation and allow for different sectors to move forward at different speeds and to identify the systems best suited to their commodity. This is another area where the standing industry advisory committee could provide valuable input.

Thank you, Mr. Chairman, for the opportunity to comment on this bill today. We're very pleased to see that the government has moved forward on farm animal health and biosecurity initiatives through the introduction of Bill 204.

The Chair (Mr. Bas Balkissoon): Thank you very much. We've got about a minute and a half for each side. Mr. Hampton.

Mr. Howard Hampton: This was a very good brief. It deals with a number of issues that I think have to be addressed. Let me just ask you this question: If the government does not act on your recommendation regarding the Office of the Chief Veterinarian for Ontario, would you still be in support of the bill?

Mr. Gordon Coukell: Definitely.

Mr. Howard Hampton: Okay. The industry advisory committee: If the government does not act on your

recommendation, would you still be in support of the bill?

Mr. Gordon Coukell: We would still be in support of the bill. I would be disappointed. I still think that we have commitments from the present government, but as someone alluded to earlier, the present minister won't always be minister. We recognize that. I've been around long enough to know that. It would be nice to see that enshrined so that it would always happen.

Mr. Howard Hampton: You also raised salient issues about hazards and compensation. If those recommendations that you make were not adopted, would you still be in support of the bill?

Mr. Gordon Coukell: Yes.

Mr. Howard Hampton: I raise these questions because my point is, it seems to me that there are a lot of issues that have not really been addressed by the bill and need to be addressed.

Mr. Gordon Coukell: There may be some of those issues but I would suggest to you that there are bigger issues sitting out there today that we can't address because we don't have the legislation here, and that's the ability to react if in fact something does happen. I've been in this industry for many years, but—

The Chair (Mr. Bas Balkissoon): We'll move on to the government side. Mr. Johnson.

Mr. Rick Johnson: I'm passing it off to Mr. Levac.

Mr. Dave Levac: Thank you very much for your presentation. A couple of things to follow up on: some of the concerns that get raised by some individuals—rightfully so, because if they're concerns, we need to put them on the table to see if they need to be addressed. Do you believe this has been rushed? And if that, do you also believe that, to carry on with what you were saying, the coverage of what it is that we're attempting to do immediately sets the table for us to get the job done that has been highlighted as being a fault in the province of Ontario?

Mr. Gordon Coukell: If working on this project for the last five years is rushing, then no, I don't think it's being rushed. We're very fortunate that we haven't had a disease outbreak in the meantime.

Mr. Dave Levac: Regarding the minister's ability to deal with traceability as opposed to being an enabling piece of legislation, your understanding is that that provides us with the opportunity to get it right.

Mr. Gordon Coukell: That should provide us with the opportunity to get it right and to interact with a national system if and when it's there.

Mr. Dave Levac: Thank you very much.

The Chair (Mr. Bas Balkissoon): We'll move on to the official opposition.

Mr. Ernie Hardeman: Gord, good to see you again. Thank you very much for your presentation. It's obviously a presentation from a group of individuals who have a greater interest, particularly, in animal traceability.

I want to go to traceability and the issue of whether the federal government is or isn't going to have it. We're

going to make the assumption that they are going to come forward with a traceability program that suits the needs of Ontario's producers. You mentioned in your presentation that, "Presently, in Ontario, the Canadian Food Inspection Agency is the only entity with legal powers to control movement of animals and order eradications." If that's good enough for our total meat processing sector, why is that not good enough for traceability?

Mr. Gordon Coukell: I don't think it's good enough for the total meat sector, and that's why we mentioned the grey period. We've been very fortunate that we haven't had a disease outbreak.

Mr. Ernie Hardeman: We could have a long debate about that, Gord, but the problems are no greater in the CFIA-inspected plants than they are in any provincially inspected plants. It may need revamping, but I would suggest that expanding either one of them would be good news. It seems to me that creating another body to do exactly the same thing from scratch doesn't make a lot of sense if we have the federal government already putting it in place.

Mr. Gordon Coukell: With due respect, Mr. Hardeman, I think we're talking about two different things here. Traceability is the ability to know where animals are: if they're diseased, where they are, where they've been, who they've been in contact with. It's nothing to do with the slaughter area—

Mr. Ernie Hardeman: No, but why can't the CFIA agency do exactly the same thing? They have people on the ground here. They have offices here. It seems to me that setting up two parallel systems doesn't make a lot of sense.

Mr. Gordon Coukell: I don't want to criticize the CFIA, but they have a hard job keeping up with what they're supposed to do today with the people they have on the ground. They don't have the ability to do this at this point in time.

Mr. Ernie Hardeman: Wouldn't it make more sense for the province to add something to that and make that a better organization? We do serve the same people, don't we?

Mr. Gordon Coukell: And that could be done through the ability to regulate under this act.

Mr. Ernie Hardeman: Okay. Thank you.

The Chair (Mr. Bas Balkissoon): Thank you very much. I thank all the deputants for being here.

I'd remind committee members, before you leave, that amendments must be filed with the clerk of the committee by 12 noon on Monday, November 30, 2009, and there is no exemption because this bill is time-allocated.

We're now adjourned until Tuesday, December 1, at 3:30 p.m. or following routine proceedings. Thank you.

The committee adjourned at 1454.

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Mardi 1^{er} décembre 2009

Standing Committee on the Legislative Assembly

Animal Health Act, 2009

Comité permanent de l'Assemblée législative

Loi de 2009 sur la santé animale



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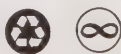
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Tuesday 1 December 2009

Mardi 1^{er} décembre 2009*The committee met at 1612 in room 228.*

ANIMAL HEALTH ACT, 2009

LOI DE 2009 SUR LA SANTÉ ANIMALE

Consideration of Bill 204, An Act to protect animal health and to amend and repeal other Acts / Projet de loi 204, Loi protégeant la santé animale et modifiant et abrogeant d'autres lois.

The Chair (Mr. Bas Balkissoon): I call this meeting of the Standing Committee on the Legislative Assembly to order. We're here for clause-by-clause consideration of Bill 204, An Act to protect animal health and to amend and repeal other Acts.

Are there any comments, questions or amendments to any sections of this bill, and if so, to which sections?

Mr. Ernie Hardeman: Mr. Chairman, I believe that at least I got quite a number of amendments to this bill from the clerk's office. I think it would be a rather large request to ask each individual member of the committee if they'd like to read all the amendments that are being proposed. That would likely take us past the hour's time that has been assigned for clause by clause on this bill.

I guess I would like to put on the record that I find it really, let's say, counterproductive to have just an hour to debate the amendments that are being proposed to this bill, which come from all three parties, including the government. In fact, if I look at just the government amendments to this, sufficient time for debate of just the government amendments is, in my mind, more than an hour, and the government has decided to give us only an hour to do it.

In fairness to the people of Ontario, I think we will work with the government and the members of the committee to see how far we can get in that debate as we go through it, but I do want to put on the record that I think it's totally inappropriate that the government would cut debate on this bill this short and expect us, as a committee, to come out with recommendations that will make this the best possible bill it could be. It seems to be just rushed through for the sake of rushing it through, because the government has absolutely no confidence in the bill they have introduced.

The Chair (Mr. Bas Balkissoon): Any other comments? Mr. Hampton? Mr. Johnson, you had a comment.

Mr. Rick Johnson: In response, this meeting was supposed to start 45 minutes ago. Had it not been for

what was taking place in the House, it would have started on time, which would have doubled the time we have available.

The Chair (Mr. Bas Balkissoon): Okay. I would move to section 1, PC motion number 1. Mr. Hardeman.

Mr. Ernie Hardeman: I move that clause 1(a) of the bill be struck out and the following substituted:

"(a) tools to prevent and address animal health emergencies;"

This is to limit the act such that it focuses on animal health emergencies and does not duplicate existing acts, such as the Provincial Animal Welfare Act. It was requested by many of the stakeholders who presented here, including the Christian Farmers and the Ontario Farm Animal Council. We are putting this motion forward at the request of the people who made presentations to this committee.

The Chair (Mr. Bas Balkissoon): Any debate on motion 1? Mr. Johnson.

Mr. Rick Johnson: I would just like to say that the main provision of this act is the protection of animal health in Ontario; it's a key objective of the proposed legislation. This motion that's been brought forward would basically remove one of the main purposes of this act, so the government will not be supporting this motion. We have had broad acceptance through consultations that this is the direction we want to go in.

The Chair (Mr. Bas Balkissoon): We'll take a vote on the motion.

All those in favour?

Against?

Motion lost.

NDP motion number 2. Mr. Hampton.

Mr. Howard Hampton: I move that section 1 of the bill be amended by striking out clauses (a), (b) and (c) and substituting the following:

"Purposes

"1. The purposes of this act are to provide for,

"(a) the promotion and protection of animal health, care and welfare in Ontario;

"(b) the establishment of measures to assist in and promote the prevention of, detection of, response to, control of and recovery from hazards associated with animals that may affect animal health, care or welfare, human health or both; and

"(c) the regulation of activities related to animals that may affect animal health, care or welfare, human health or both."

The rationale we heard from a number of organizations is that animal health is tied to animal welfare. Even the government discussion paper states: "The handling of farmed animals and the condition of their environment can have a direct impact on the health of the animals." The European Union recognizes the animal health-animal welfare link. For this act to be effective in protecting animal health, it needs to address animal care and animal welfare.

The Chair (Mr. Bas Balkissoon): Any debate? Mr. Johnson.

Mr. Rick Johnson: The government won't be supporting this. The addition of "the promotion ... of animal health, care and welfare" presents issues of potential duplication with the OSPCA Act, and we believe that issues regarding animal welfare are best served under the OSPCA Act.

Also, it has been drafted in such a way that it disregards the presence of clause (d) without explicitly striking it out.

1620

The Chair (Mr. Bas Balkissoon): Further debate? There being none, we'll take the vote. All in favour? Against? The motion loses.

Shall section 1 carry? Carried.

Section 2: motion number 3, government motion. Mr. Johnson?

Mr. Rick Johnson: I move that the definition of "fomite" in section 2 of the bill be struck out and the following substituted:

"'fomite' means an inanimate object that is capable of carrying or transmitting a disease or a biological, chemical, physical or radiological agent or factor that is a hazard and includes,

"(a) material used for bedding animals,

"(b) any clothing, footwear or equipment if it may contain a disease or a biological, chemical, physical or radiological agent or factor that is a hazard or if it may have come into contact with a hazard or an animal that a hazard is affecting or in which a hazard may be present, and

"(c) any other thing prescribed as a fomite,

"but does not include a conveyance or any thing prescribed as excluded ('vecteur passif')."

We're bringing this forward because the change would make the definition of fomite consistent with other terms in the proposed legislation. It provides flexibility should other items be considered fomite in the future.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Hardeman.

Mr. Ernie Hardeman: Yes, a question on that. Obviously the change is in (c), any other item prescribed, and then the next line, "or any ... thing prescribed" as excluded. Where would you get the items that are prescribed as excluded?

Mr. Rick Johnson: If something down the road becomes not necessarily to be included, it gives the flexibility to remove an item off the list as what is described as fomite.

The Chair (Mr. Bas Balkissoon): Further debate? All in favour of the motion? Against? That carries.

Motion number 4: NDP. Mr. Hampton.

Mr. Howard Hampton: I move that the definition of "hazard" in section 2 of the bill be struck out and the following substituted:

"'hazard' means,

"(a) a disease or a biological, chemical, physical or radiological agent or factor where, in the absence of control, the disease, agent or factor, as the case may be, adversely affects or is likely to adversely affect the health, care or welfare of any animal or is likely to cause, directly or indirectly, significant harm to human health;

"(b) a condition of a premises or conveyance or the environment in which an animal, animal product, animal by-product, input, waste material, fomite, vector or any other thing is kept, housed, processed, raised, grown, displayed, stored, assembled, sold, offered for sale, slaughtered, transported or disposed of, where, in the absence of control, the condition or environment, as the case may be, adversely affects or is likely to adversely affect the health, care or welfare of any animal or is likely to cause, directly or indirectly, significant harm to human health; or

"(c) a factor, substance, circumstance, condition or environment that adversely affects or is likely to adversely affect the health, care or welfare of any animal or is likely to cause, directly or indirectly, significant harm to human health."

I don't think I have to go into too much detail. We're trying to capture here what is likely to significantly impact animal health, animal welfare, animal care and, by extension, human health.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Johnson.

Mr. Rick Johnson: The government won't be supporting this motion. We feel that government motion number 5, which will be coming up next, allows for the prospect of prescribing additional things as hazards in the future, by regulation if necessary, as new items may arise.

One of the intentions in drafting this animal health legislation for consideration is to avoid the potential overlap with existing authorities—once again, with the OSPCA act.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, all in favour of the motion? Against? The motion loses.

Motion number 5: government motion. Mr. Johnson.

Mr. Rick Johnson: I move that the definition of "hazard" in section 2 of the bill be struck out and the following substituted:

"'hazard' means,

"(a) a disease or a biological, chemical, physical or radiological agent or factor,

"(b) a condition of a premises or conveyance or the environment in which an animal, animal product, animal by-product, input, waste material, fomite, vector or any other thing is kept, housed, processed, raised, grown,

displayed, stored, assembled, sold, offered for sale, slaughtered, transported or disposed of, or

“(c) any other thing prescribed as a hazard,

“where in the absence of control, the disease, agent, factor, condition, environment or other thing, as the case may be, adversely affects or is likely to adversely affect the health of any animal or is likely to cause, directly or indirectly, significant harm to human health, but does not include any thing prescribed as excluded (‘danger’).”

The Chair (Mr. Bas Balkissoon): Any comments?

Mr. Rick Johnson: This proposed change would make the definition of “hazard” consistent with other terms in the proposed legislation as drafted, including animal, animal product or animal by-product. It would also provide some clarity for the consolidation of existing legislation in the future as regulations.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Hardeman.

Mr. Ernie Hardeman: Yes, I have a question to the parliamentary assistant. In the previous comment to the previous motion we dealt with, he implied or said that the changes to the government motion would go a long way to meet the needs or to meet the direction that was suggested by the third party. I guess I want a clarification that that change, “any other thing prescribed as a hazard,” would give the minister the opportunity to broaden the scope of this bill by including animal welfare as part of this bill. Is that accurate?

Mr. Rick Johnson: It would give the—“any other thing prescribed as a hazard.” If the minister determined, in consultation with other—

Mr. Ernie Hardeman: The majority of the farm community that was in here speaking to the committee were very concerned about making this bill broader to include animal health, animal welfare; they were very concerned about that. But you’re suggesting that this change will allow the minister to do that without consulting them again.

Mr. Rick Johnson: The minister has been clearly on record as doing consultations—

Mr. Ernie Hardeman: My question isn’t where the minister’s record is. My question is, would this change allow the minister to include animal welfare in the hazards that are presently listed in the bill?

Mr. Rick Johnson: If I could get staff person Ryan Collier to answer, for clarification.

The Chair (Mr. Bas Balkissoon): Please come forward. State your name for Hansard and then you can answer the question.

Mr. Ernie Hardeman: I guess, Mr. Chairman, I just need a yes-or-no answer, whether in fact this would be possible.

Mr. Ryan Collier: Ryan Collier, Ministry of the Attorney General.

The proposed motion specifically allows other things to be prescribed as a hazard in the future by regulations made by the Lieutenant Governor in Council. These regulations are passed by cabinet. Any other thing that is prescribed as a hazard, whether or not it applies, would

still be within the purposes of the act, which are for the protection of animal health. This provision allows for the Lieutenant Governor in Council to make regulations adding things or excluding things from the definition of “hazard.”

Mr. Ernie Hardeman: I understood all that. My question is, could animal welfare be prescribed under this regulation?

Mr. Ryan Collier: For this provision, the definition of “hazard” can include anything that the Lieutenant Governor in Council prescribes as being a hazard.

Mr. Ernie Hardeman: If the minister decided this was a hazard, she could propose a regulation under this change to say, as part of this bill, that animal welfare would be a hazard.

I think this is rather a critical point, because, obviously there are quite a number of amendments here that want to include that. We see the government voting against every one of them. But the truth of the matter is, this seems to be implying that the government could, at any point in time, after we have closed the door to the barn, do whatever they like with including or not including that in this bill.

Mr. Ryan Collier: It would be odd to prescribe animal welfare as a hazard, because it would be inconsistent with the definition. But if there are things that are a hazard that respect animal welfare and are within the scope of the bill, being the protection of animal health, yes, those things could be prescribed by the Lieutenant Governor in Council.

1630

Mr. Ernie Hardeman: Thank you very much. I would, Mr. Chair, if I could, request a recorded vote on this amendment.

The Chair (Mr. Bas Balkissoon): Further debate?

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): The motion carries.

Motion number 6, a government motion: Mr. Johnson.

Mr. Rick Johnson: I move that the definition of “vector” in section 2 of the bill be struck out and the following substituted:

“‘vector’ means a living organism that is capable of carrying and transmitting a disease or a biological agent or factor that is a hazard and includes any other thing prescribed as a vector, but does not include a human or any thing prescribed as excluded; (‘vecteur’)”

The proposed change would achieve several related purposes. It would make the definition of “vector” consistent with how other terms in the proposed legislation have been drafted, including “animal,” “animal by-

product” and “animal product.” It would also replace the word “individual” with the word “human” to enhance the clarity of the provision and avoid interpretation problems regarding the term “individual.”

The Chair (Mr. Bas Balkissoon): Debate? Mr. Hardeman.

Mr. Ernie Hardeman: My question is to the parliamentary assistant, if I might. The word “vector,” is it defined anywhere in the Oxford dictionary?

Mr. Rick Johnson: I’m going to ask that—

The Chair (Mr. Bas Balkissoon): Can we have ministry staff or whoever can answer it come forward please?

Mr. Ryan Collier: I don’t know if I can specifically answer the question whether “vector” is defined in the Oxford dictionary. It’s defined in the legislation here because it is a scientific term that has a specific meaning within the purposes of the act. To provide clarity for what the purpose of the word is, it’s also being amended so that if there is any uncertainty about things that are a vector, they can be prescribed by regulation by the LGIC, as well as excluded. The intent is clear here that “vector” does not include a human, which would be different from the regular scientific use of the word.

Mr. Ernie Hardeman: I guess my question is that—“vector” means ... ” and it goes on to define it. It would seem to me that the word is defined in the Oxford dictionary to mean something. I find it hard to believe the government would have legislation that says, “Well, and we will take that definition, and we want to have something in there so that we can include anything else in the world because we decide it’s a vector.” It is or it isn’t. I don’t know why you would have more or less, why you would ever have a need to expand the definition of the word.

The Chair (Mr. Bas Balkissoon): Is that a comment or a question?

Mr. Ernie Hardeman: It’s a question. Why would we ever have a need to expand the definition of the word? A truck is a truck, not anything else you describe as a truck.

Mr. Ryan Collier: A vector may not always necessarily be a living organism, and this power makes it clear, for adding things that would be encompassed within the definition of “living organism,” to provide regulations in the future that, where there is uncertainty on what is within the definition of “vector,” there is a regulation setting it out further—that clarity can provide it.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Moridi.

Mr. Reza Moridi: The word “vector” has another meaning, too, in the Oxford dictionary and in scientific terms. Apart from what we have here, it means a quantity that, apart from its absolute value, has direction. That is another definition of “vector.” Here we have the definition of “vector” as it is given in this act for this purpose. Like many other words, every word can have various definitions, and this is one of those cases, I believe.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Hardeman.

Mr. Ernie Hardeman: I just want to say my concern about this is the fact that when you read that, it says that we have a list of definitions unless the minister doesn’t like them, and she can change them at will, because it just says that anything else we describe as that will have to go into that category. I really have concerns that government would want a piece of legislation where, even in the definitions, they can’t leave out the part where the minister can change them at will.

I would like a recorded vote on this amendment.

The Chair (Mr. Bas Balkissoon): Any further debate?

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): That carries. Shall section 2, as amended, carry?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): Okay, that carries. We’ll now move to section 3. Page 7, PC motion: Mr. Hardeman.

Mr. Ernie Hardeman: I move that section 3 of the bill be amended by adding the following subsection:

“Industry advisory committee

“(2) The minister shall establish an industry advisory committee consisting of representatives of industries regulated by this act to provide advice to the minister or chief veterinarian for Ontario on any matter related to the protection of animal health or to matters regulated under this act.”

Of course, this is intended—as was requested, it spoke to, in the bill presently, where the minister may appoint these committees. It was brought forward in the public presentations that it should be mandated that the minister must do that.

I think it’s also important that that committee includes the stakeholders that are being affected—not just that the minister “may” appoint a committee or “shall” appoint a committee of experts outside the field—that in fact we would have the industry be allowed to be part of that advisory committee.

That’s the reason for this amendment.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Johnson.

Mr. Rick Johnson: The government won't be supporting this amendment. We have one coming up, the next motion.

With this one in particular, it states, "The minister shall establish an industry advisory committee," singular, which presents issues, because the minister might want to promote other committees. The concern—I know it's minute, but leaving the "s" off the end of the word might mean that the minister would only be allowed to raise one. But I understand where you're coming from.

As well, it's limiting as to who could be appointed, because it talks about stakeholders. We're concerned that that might eliminate—if you wanted to have a professor from the University of Guelph, for example, sit on a committee, this might limit that.

So we're not supporting it because we feel that government motion number 8 addresses the same concern with a wider catch.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Page 8, government motion: Mr. Johnson.

Mr. Rick Johnson: I move that section 3 of the bill be amended by adding the following subsection:

"Advisory committees

"(2) The minister shall establish such committees as the minister considers appropriate to provide advice to the minister or the chief veterinarian for Ontario on any matter related to the protection of animal health and matters regulated under this act."

This, we feel, addresses the concerns that were brought forward. From my past life in school boards, changing a "may" to a "shall" is very important. We heard from several stakeholders that the inclusion of the word "shall"—the minister "shall"—provides much more force to the bill. We've listened to the concerns of stakeholders and addressed that issue here.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Hardeman.

Mr. Ernie Hardeman: I want to say I will support this amendment, although, opposite to the parliamentary assistant, the fact that it doesn't include any reference to who will be on the committee makes me somewhat nervous. Three people in the minister's office could be the committee. I think our previous motion was much better, because it actually included the makeup of the committee so we would ensure that the people who were going to be impacted by the decision of the minister were in fact the industry people to be heard.

Having said that, they've come some distance. It was "may," and I really think it's important that it "shall" appoint the committee to get the advice.

The Chair (Mr. Bas Balkissoon): Any further debate? We'll take the vote.

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Hampton, Hardeman, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): That carries.

Shall section 3, as amended, carry? Carried.

Page 9, PC motion: Mr. Hardeman.

1640

Mr. Ernie Hardeman: I move that subsection 4(1) of the bill be struck out and the following substituted:

"Chief veterinarian for Ontario

"4(1) The minister shall appoint a chief veterinarian for Ontario for the purposes of this act."

This removes the requirement for the chief veterinarian to be an employee of the province. Currently, the bill says, "The minister shall appoint an employee in the ministry to act as chief veterinarian for Ontario for the purposes of this act." Given that the person will be an expert in animal health for the province, it should not be restricted to existing employees.

Under the present structure, it would be very difficult for—if there was a veterinarian on staff at the ministry, it would be automatic that that's the only person eligible to be the chief veterinarian. We think that the option should be open that it could be any veterinarian the minister deems appropriate to be the chief veterinarian.

The Chair (Mr. Bas Balkissoon): Any further debate?

Mr. Rick Johnson: We won't be supporting this motion. It would be nice to get a little more clarification from you about the purpose of the motion, as it would remove the requirement that the CVO be an employee of the ministry at the time of the appointment. This motion may be seeking to address a mistaken assumption that a CVO could only be appointed from within the public service. We believe that the wording in subsection 4(1) as drafted in the bill would allow the hiring from outside the Ontario public service. We're just concerned it might create some ambiguity about how the CVO, once appointed, would be positioned within the public service.

The Chair (Mr. Bas Balkissoon): Further debate? None? We'll take the vote.

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Page 10, PC motion: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 4(2) of the bill be struck out and the following substituted:

“Qualifications

“(2) The qualifications of the chief veterinarian for Ontario are that he or she,

“(a) is a veterinarian who holds a licence without conditions or limitations;

“(b) has at least five years experience as a veterinarian in a practice that includes farm animals;

“(c) possesses the qualifications for the chief veterinarian for Ontario that may be prescribed.”

This, of course, adds the requirement that the veterinarian must have five years of experience in a practice that includes farm animals. I think it was brought forward by a number of people who presented to the committee that they had some concern that it may not be appropriate to have a chief veterinarian who is not acquainted with agriculture animals. Currently in the bill, there's absolutely no requirement for any experience for the chief veterinarian—and there is such a requirement for the chief medical officer of health. Many stakeholders asked for this, including the Ontario Cattlemen's Association, the Ontario Farm Animal Council and the Ontario Livestock and Poultry Council—they all asked for this “five years” to be included and that they have large animal health experience, and that's why we have this amendment before us.

The Chair (Mr. Bas Balkissoon): Any further debate?

Mr. Rick Johnson: The government won't be supporting this motion. We have one—motion 11, the next motion, covers it, and I'll just give you the reasons why. In clause (b), you've said, “has at least five years experience as a veterinarian in a practice that includes farm animals;”—but it doesn't necessarily mean that the vet who was working there has dealt with farm animals as well. I know, personally, we take our Jack Russell to one of the vets, and the other one works on our horses. The small animal vet doesn't work there, but does work in a practice that does include farm animals.

The term “veterinarian” is a defined term in the bill that refers to licensing under Ontario's Veterinarians Act. A veterinarian medical practitioner with relevant experience obtained while licensed in a jurisdiction other than Ontario may not qualify under this proposed language. There has been a lot of talk lately about interprovincial qualifications.

So those are the reasons why, and we feel that we've addressed these concerns in the next motion.

The Chair (Mr. Bas Balkissoon): We'll take the vote on the motion. Oh, Mr. Hardeman?

Mr. Ernie Hardeman: Mr. Chairman, I would just point out that (b) is quite clear, contrary, I think, to what I just heard. It says, “has at least five years experience as a veterinarian in a practice that includes farm animals.” In fact, if the person is in that—the parliamentary assistant is right—he may be working in a practice even though he

has never been involved with a large animal. But that's still one step better than never having even worked in a practice that did large animals. We could, in fact, have a chief veterinarian in the province of Ontario who has had nothing but small-animal practice experience, who has never been asked to go to the agricultural community, to go to a farm to look after a large animal, and who has no idea how to deal with large animals. We think it's rather important that that be part of the qualifications of the chief veterinarian—not that they have to have been a full-time practising large-animal veterinarian, but that they have been to the farm to see large animals.

The Chair (Mr. Bas Balkissoon): We'll take the vote on the motion.

Mr. Ernie Hardeman: Recorded vote.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Page 11, government motion, Mr. Delaney.

Mr. Bob Delaney: I move that subsection 4(2) of the bill be struck out and the following substituted:

“Qualifications

“(2) The qualifications of the chief veterinarian for Ontario are that he or she,

“(a) is a veterinarian who holds a licence without conditions or limitations;

“(b) has engaged in the practice of veterinary medicine for at least five years; and

“(c) possesses the qualifications for the chief veterinarian for Ontario that may be prescribed.”

The Chair (Mr. Bas Balkissoon): Any debate? There being none—Mr. Hardeman?

Mr. Ernie Hardeman: I would just say again, as previously, the only difference between this motion and the one that the opposition put forward is having practised in a practice where large animals were involved.

Having said that, the last time I was willing to settle for half a loaf because it was an improvement, but I think leaving out the indication that the chief veterinarian should have some experience in rural Ontario and large-animal health rather than having been practising in downtown Toronto—and it doesn't say it has to be the most recent five years; it says they have to have some experience in large-animal health, in the previous resolution. Without that being in there, I have to vote against this and ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): Mr. Johnson?

Mr. Rick Johnson: One of the things that we tried to address, and I understand your concern—we've raised the five years up. But the concern was that by restricting it to a veterinarian practice as it said in the earlier motion, we might be eliminating a client-based veterinary

practice, someone who has been involved in research—they could have been doing research on animals—further education, public health administration experience. By defining it so tightly, it could potentially eliminate people.

Mr. Ernie Hardeman: I think we're missing the point. If that research was in large animals, then that individual would qualify to be the chief veterinarian. This bill is primarily about livestock in rural Ontario on the farm and is not about the health of pets in the city. To have a chief veterinarian for Ontario who has absolutely no experience with large-animal health seems to me to be very counterproductive in what we need here and what we're trying to do with this bill—to have someone who understands the rural community and rural animal health.

So somebody who is working in research at the University of Guelph, if they're doing research on large animals, would be very qualified to get this job, and if they had been doing that for five years, they would fit the description of the previous resolution. But what this one says is that the chief veterinarian for Ontario could in fact be someone who has never been to rural Ontario, and I think that's totally unacceptable.

Mr. Rick Johnson: But just to go back, the previous amendment said “in a practice that includes” large animals. A practice does not necessarily mean that person has worked on it. So what we've been trying to do here is to expand it so that it leaves it open for more.

We can agree to disagree.

1650

The Chair (Mr. Bas Balkissoon): We'll take the vote on the motion. All in favour?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Johnson, Moridi, Ramal.

Nays

Hampton, Hardeman.

The Chair (Mr. Bas Balkissoon): The motion carries.

Shall section 4, as amended, carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Shall section—no, we're going to have an amendment here. Page 12, government motion.

Mr. Bob Delaney: I move that clause 14(2)(b) of the bill be amended by striking out “collected and used” at the end and substituting “disclosed.”

The Chair (Mr. Bas Balkissoon): Any debate?

Mr. Rick Johnson: This is to make a correction. This change would amend an incorrect reference in the first reading version of the bill. The term “disclosed” is the correct term and its use would be consistent with the language used in 14(3)(c).

The Chair (Mr. Bas Balkissoon): Further debate? I'll take the vote. All in favour? That motion carries.

Shall section 14, as amended, carry? Carried.

Shall section 15 carry? Carried.

Shall section 16 carry? Carried.

Shall section 17 carry? Carried.

Shall section 18 carry? Carried.

Page 13, a PC motion.

Mr. Ernie Hardeman: I move that subsection 19(1) be amended by striking out “When acting under section 18 or under the authority of a warrant or when consent has been given” at the beginning and substituting “When acting under the authority of a warrant, when consent has been given or when the inspector has reasonable grounds to believe that there is an urgent threat to animal or human health.”

Currently, this section allows inspectors to enter and inspect private premises without requiring a warrant as long as it is one of the situations outlined in section 18. These situations include determining whether proper licences are in place or being complied with when a licence is required under the Food Safety and Quality Act, 2001; when the chief veterinarian has reasonable grounds to suspect there is a hazard, but it is part of a surveillance zone or control area; or when a licence is required under the Livestock Community Sales Act, etc. The amendment would limit the situations in which the warrant is required.

I think it's important to point out that warrantless entry is a rather broad brush to paint everything with, and I think it needs defining. There is no reason why an inspector should get warrantless entry to go and see if the proper licence is on the wall. That's something that would be very practical and appropriate to go and get a warrant for before you can go in there for that purpose.

I would agree with the government that there are going to be situations where, when it actually deals with the imminent challenge of animal health or public health, warrantless entry may be something that is required, but I think we need to be very cautious that we don't go further with that than is required. Checking on whether all the appropriate licences and the proper postings are on the bulletin board in a sales barn is not one of those. So I think this kind of narrows the warrantless entry.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Rick Johnson: The government won't be supporting this motion.

There are a number of significant concerns about how this motion would affect the bill. This change, as proposed, would sever the link between sections 18 and 19, and the two were designed to work in tandem with one another. Although section 18 would stay in the bill, under this motion it's unclear what purpose it would

serve if it was not mentioned at all in section 19. Section 18 was drafted to provide clarity as to specific circumstances when inspection authorities in section 19 could be exercised. The proposed changes would diminish clarity and make a key part of the legislation vague. For example, it's unclear as to what would constitute an urgent threat to animal health.

Requiring consent or a warrant prior to entering a licensee's premises could frustrate inspection activities, which is not appropriate when activities at such sites could affect animal or human health or both.

The Chair (Mr. Bas Balkissoon): Any further debate? Mr. Hardeman.

Mr. Ernie Hardeman: I would just point out that the discussion of what is reasonable grounds, as is quite clear in this amendment, is at the discretion of the inspector. This is quite definitive. If the inspector believes that there is urgent threat to animal or human health, they can go in without a warrant. But if the inspector knows that they're just going in to make sure that the licence is on the bulletin board, and the place is closed, they do not have permission to go in; they must get a warrant to do that, just as any other police officer in this province would have to do if it wasn't under this act. I don't think this act, on checking licences and the validity of the licence—I don't think that they should have more powers than a police officer has to check licences for other establishments in this province.

The Chair (Mr. Bas Balkissoon): Any further debate? I'll take the vote.

Mr. Ernie Hardeman: Recorded, please.

Ayes

Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses.

Page 14, NDP motion: Mr. Hampton.

Mr. Howard Hampton: I move that section 19 of the bill be amended by adding the following subsections:

"Authorization to relieve animal suffering

"(13) In any of the circumstances set out in subsection (14), an inspector may,

"(a) destroy an animal or order that an animal be destroyed, at the expense of an owner or custodian of the animal;

"(b) order that such care and attention as the inspector considers adequate be provided to an animal, including but not limited to examination and treatment of the animal by a veterinarian, at the expense of an owner or custodian of the animal.

"Same

"(14) The following are the circumstances referred to in subsection (13):

"1. The inspector concludes that the course of action being ordered is the most humane course of action available for the animal.

"2. The inspector concludes that the course of action being ordered is necessary to prevent or relieve undue suffering or distress on the part of the animal.

"3. The inspector concludes that the animal has been abandoned by its owner or custodian.

"4. The inspector believes, on reasonable and probable grounds, that the animal is likely to be abandoned by its owner or custodian.

"5. The inspector has been notified by the chief veterinarian for Ontario that the chief veterinarian for Ontario believes, on reasonable and probable grounds, that market conditions or other factors make keeping the animal alive,

"i. an undue hardship on the owner, or

"ii. otherwise impractical.

The Chair (Mr. Bas Balkissoon): Any debate? Mr. Johnson.

Mr. Rick Johnson: The authorities proposed in this motion would place a significant amount of authority in the hands of inspectors, who may not always be licensed veterinarians trained in assessing suffering or distress. These distress-based scenarios are best addressed under the OSPCA act, and non-legislative approaches may be a better solution for addressing the market conditions or other factors and scenarios contemplated in paragraph five of the motion.

The Chair (Mr. Bas Balkissoon): Further debate? Seeing none, I'll take the vote. All in favour of the motion? Against. The motion loses.

Shall section 19 carry? Carried.

Page 15, PC motion: Mr. Hardeman.

Mr. Ernie Hardeman: I move that subsection 20(5) of the bill be amended by striking out "seven" and substituting "two."

The reason for this, of course, is the timing between the oral—presently in the act, there can be seven days' difference between the oral order and the final written order. In fact, if they take the full seven days, it would be impractical, if not impossible, for the person receiving the order to actually appeal that order before the deadline for appeal has passed. It's just to reduce that time between when an inspector would issue the order orally and then write it up as an order and send it to the individual so they'd have it in hand, so that if they wanted to appeal it, they would be able to appeal it.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Johnson.

Mr. Rick Johnson: Although inspectors are required to issue written orders as soon as practical, the government feels that a two-day mandatory period may not be appropriate in all cases. It ties their hands. We won't be supporting this motion.

1700

The Chair (Mr. Bas Balkissoon): Any further debate? We'll take the vote.

All in favour of the motion? Against? The motion is lost.

Shall section 20 carry?

Mr. Howard Hampton: Recorded vote.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): Section 20 carries.

Shall section 21 carry? Carried.

Shall section 22 carry? Carried.

Shall section 23 carry? Carried.

Shall section 24 carry? Carried.

Page 16, an NDP motion: Mr. Hampton.

Mr. Howard Hampton: I move that section 25 of the bill be amended by adding the following subsection:

“Order, destruction or relocation of animals

“(2.1) If in the opinion of the chief veterinarian for Ontario, an emergency situation exists that has a significant potential to cause a large number of animals undue suffering or distress such that it is necessary to relocate animals, destroy animals or both, the chief veterinarian for Ontario may, subject to the regulations,

“(a) determine the most humane and effective method for the relocation or destruction or both;

“(b) issue a written order to owners or custodians of animals to relocate animals, destroy animals or both, in accordance with the method determined under clause (a).”

This speaks to the situation where you're really dealing with an emergency. For example, if hundreds of animals are rejected at the border or suddenly have no place to go because a company has gone bankrupt, this would clarify OMAFRA's role in ensuring that these animals are humanely transported to a nearby slaughterhouse, are euthanized or some other measure is taken to deal with them.

The Chair (Mr. Bas Balkissoon): Any further debate?

Mr. Rick Johnson: The proposed bill includes various response authorities that may require the relocation or destruction of animals in an appropriate animal health situation. The destruction authorities this change would introduce would present some overlap with the authorities already provided for in section 25. The term “emergency situation” is not clearly defined here. There is an existing Lieutenant Governor in Council regulation-making power respecting the destruction and disposal of animals, which is in clause 63(1)(c).

The Chair (Mr. Bas Balkissoon): Further debate? We'll take the vote.

All in favour of the motion? Against? The motion is lost.

Shall section 25 carry? Carried.

The time of 5 o'clock has passed, and per the orders of the House, “at 5 p.m. on Tuesday, December 1, 2009, those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. The committee shall be authorized to meet beyond the normal hour of adjournment until completion of clause-by-clause consideration. Any division required shall be deferred until all remaining questions have been put and taken in succession, with one 20-minute waiting period allowed, pursuant to standing order 129(a).”

We will put the question on the NDP motion on page 17, subsection 26(1) of the bill.

All in favour? Against? That is lost.

Page 18, PC motion, subsection 26(1) of the bill.

Mr. Howard Hampton: Recorded.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. We'll come back to that one.

We'll go to the next motion, page 19: PC motion, section 26 of the bill.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. We'll come back to it.

Page 20, NDP motion, paragraph 1 of subsection 26(2) of the bill.

All in favour? Against? That motion is lost.

Page 21, PC motion, subsection 26 of the bill.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. We'll get back to it.

We'll move to section 27. Shall section 27 carry? Carried.

Shall section 28 carry? Carried.

Shall section 29 carry? Carried.

Page 22, PC motion, subsection 30(4) of the bill.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. We'll come back.

Shall section 31 carry? Carried.

Shall section 32 carry? Carried.

Page 23, NDP motion, subsection 33(1) of the bill.

All in favour? Against? That is lost.

Page 24, NDP motion, subsection 33 of the bill.

All in favour? Against? That is lost.

Page 25, PC motion, section 33 of the bill.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): Recorded vote requested. We'll come back.

Page 26, PC motion, subsection 34(9) of the bill.

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): Recorded vote requested. We'll be back.

Shall section 35 carry? Carried.

Shall section 36 carry? Carried.

Shall section 37 carry? Carried.

Shall section 38 carry? Carried.

Shall section 39 carry? Carried.

Page 27, PC motion, subsection 40(3) of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote requested.

We'll move to section 41.

Page 28, PC motion, subsection 47(7) and (8).

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote requested.

Page 29, PC motion, subsection 41(9) of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote. We'll come back to it.

We'll move to section 42.

Page 30, PC motion, section 42(12) of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote requested.

We'll move to section 43.

Page 31, PC motion, section 43 of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote requested.

Shall section 44 carry? Carried.

Shall section 45 carry? Carried.

Shall section 46 carry? Carried.

Shall section 47 carry? Carried.

Shall section 48 carry? Carried.

Page 32, PC motion, subsection 49(1) of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote requested. We'll come back.

Page 33, PC motion, subsection 49(2) of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Recorded vote requested.

Shall section 50 carry? Carried.

Shall section 51 carry? Carried.

Shall section 52 carry? Carried.

Shall section 53 carry? Carried.

Shall section 54 carry? Carried.

Shall section 55 carry? Carried.

Shall section 56 carry? Carried.

Shall section 57 carry? Carried.

Page 34, PC motion, subsection 58(2) of the bill.

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): Mr. Hardeman requests a recorded vote. We'll come back to it.

Shall section 59 carry? Carried.

Shall section 60 carry? Carried.

Shall section 61 carry? Carried.

Shall section 62 carry? Carried.

We'll move to page 35, government motion, clause 63(1)(f) of the bill.

Shall it carry? All in favour? Carried.

Page 36, PC motion, clause 63(3)(a) of the bill.

1710

Mr. Ernie Hardeman: Recorded.

The Chair (Mr. Bas Balkissoon): A recorded vote requested.

Page 37, NDP motion, subsection 63(5) of the bill: All in favour? Against? It loses.

Page 38, government motion, clause 63(5)(g) of the bill: All in favour? Carried.

We'll move to section 64, page 39, government motion, clause 64(1)(e) of the bill. Carried.

Page 40, government motion, clause 64(3)(e) of the bill: Shall the motion carry? Carried.

Page 41, government motion, clause 64(3)(f) of the bill: Shall the motion carry? Carried.

Shall section 64, as amended, carry? Carried.

Shall section 65 carry? Carried.

Shall section 66 carry? Carried.

Page 42, government motion, subsection 67(11.1) of the bill: Shall the motion carry? Carried.

Shall section 67, as amended, carry?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested on section 67 carrying. We'll come back to the vote.

Shall section 68 carry? Carried.

Shall section 69 carry? Carried.

Shall section 70 carry? Carried.

Shall section 71 carry? Carried.

Shall section 72 carry? Carried.

Shall section 73 carry? Carried.

Shall section 74 carry? Carried.

Page 43, government motion, subsection 75(4) of the bill: Shall the motion carry? Carried.

Shall section 75, as amended, carry? Carried.

Shall section 76 carry? Carried.

We'll go back to page 18, PC motion, subsection 26(1) of the bill. A recorded vote has been requested.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion does not carry.

Page 19, PC motion, section 26 of the bill. A recorded vote has been requested.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses.

Page 21, PC motion, section 26 of the bill. A recorded vote has been requested.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 26 carry? Carried.

We'll move to page 22, subsection 30(4) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 30 carry?

Interjection.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested on section 30.

Ayes

Delaney, Dickson, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): It carries.

We'll move to page 25, PC motion, section 33 of the bill. A recorded vote has been requested.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): That loses. Shall section 33 carry?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): Section 33 carries. Page 26, subsection 34(9) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 34 carry?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): The section carries.

Page 27, subsection 40(3) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 40 carry?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested on section 40.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): That section carries.

Page 28, PC motion, subsections 41(7) and (8). A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Page 29, subsection 41(9) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 41 carry?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): Section 41 carries. Page 30, subsection 42(12) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 42 carry?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): Section 42 carries. Page 31, section 43 of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses.

Shall section 43 carry?

Mr. Ernie Hardeman: Recorded vote.

Ayes

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

Nays

Hardeman.

The Chair (Mr. Bas Balkissoon): Section 43 carries. Page 32, subsection 49(1) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Page 33, subsection 49(2) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 49 carry? Carried.

Page 34, subsection 58(2) of the bill, PC motion. A recorded vote has been requested.

Ayes

Hardeman.

Nays

Delaney, Dickson, Hampton, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses. Shall section 58 carry? Carried.

Page 36, clause 63(3)(a) of the bill. A recorded vote has been requested on this PC motion.

Ayes

Hampton, Hardeman.

Nays

Delaney, Dickson, Johnson, Moridi, Ramal.

The Chair (Mr. Bas Balkissoon): The motion loses.

Shall section 63, as amended, carry? Carried.

We'll go back and take the vote on section 67. A recorded vote has been requested on section 67.

The Clerk of the Committee (Ms. Tonia Grannum): As amended.

The Chair (Mr. Bas Balkissoon): Okay. Shall section 67, as amended, carry?

Mr. Ernie Hardeman: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested.

Mr. Ernie Hardeman: I'd also like to request a 20-minute recess before we vote on this one.

The Chair (Mr. Bas Balkissoon): We're recessed for 20 minutes.

The committee recessed from 1719 to 1739.

The Chair (Mr. Bas Balkissoon): I call the meeting to order. We're on section 67.

Shall section 67, as amended, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 204, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Anything else? Meeting adjourned.

The committee adjourned at 1740.

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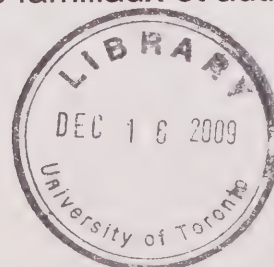
Mercredi 2 décembre 2009

Standing Committee on the Legislative Assembly

Employment Protection
for Foreign Nationals Act
(Live-in Caregivers
and Others), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 sur
la protection des étrangers
dans le cadre de l'emploi
(aides familiaux et autres)



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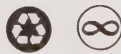
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Wednesday 2 December 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Mercredi 2 décembre 2009

The committee met at 1307 in room 228.

The Chair (Mr. Bas Balkissoon): I call to order the meeting of the Standing Committee on the Legislative Assembly, Wednesday, December 2, 2009. We're here to consider Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000.

SUBCOMMITTEE REPORT

The Chair (Mr. Bas Balkissoon): First, I need the approval by the standing committee of the subcommittee report. Mr. Delaney, can you read it into the record?

Mr. Bob Delaney: Thank you, Chair.

Your subcommittee met on Thursday, November 26, 2009, to consider the method of proceeding on Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000, and recommends the following:

(1) Subject to referral of the bill by the House, that the clerk of the committee, with the authorization of the Chair, post information regarding public hearings on Bill 210 on the Ontario parliamentary channel and the committee's website.

(2) Subject to referral of the bill by the House, that the Ministry of Labour provide the committee with Bill 210 briefing binders prior to the public hearings.

(3) Subject to referral of the bill by the House, that interested parties who wish to be considered to make an oral presentation on the bill contact the clerk of the committee by 12 p.m. on Tuesday, December 1, 2009.

(4) Subject to referral of the bill by the House, that if all witnesses cannot be accommodated, the clerk provide the subcommittee members with the list of witnesses who have requested to appear by 12:15 p.m. on Tuesday, December 1, 2009, and that the caucuses provide the clerk with a prioritized list of witnesses to be scheduled by 2 p.m. on Tuesday, December 1, 2009.

(5) Subject to referral of the bill by the House, that the length of time for all witness presentations be 10 minutes.

(6) Subject to referral of the bill by the House, that the committee be authorized to meet for public hearings on Wednesday, December 2, 2009, from 1 p.m. to 3 p.m.,

and from 4 p.m. to 6 p.m., as per the time allocation motion.

(7) Subject to referral of the bill by the House, that the deadline for written submissions on the bill be 5 p.m. on Wednesday, December 2, 2009.

(8) Subject to referral of the bill by the House, that the deadline for filing amendments be 12 p.m. on Monday, December 7, 2009, as per the time allocation motion.

(9) Subject to referral of the bill by the House, that the committee be authorized to meet following routine proceedings on Tuesday, December 8, 2009, for clause-by-clause consideration of the bill, as per the time allocation motion.

(10) Subject to referral of the bill by the House, that the research officer provide the committee a brief paper on what Manitoba has done with respect to this issue prior to public hearings on the bill.

(11) Subject to referral of the bill by the House, that the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

This, Chair, is your subcommittee report.

The Chair (Mr. Bas Balkissoon): Shall the report be adopted? Agreed? Carried.

Okay, we'll now get to deputation, but before we do, I just want to make a couple of announcements. The House is meeting, and based on the last couple of days, there have been lots of bells. Mr. Dhillon?

Mr. Vic Dhillon: Chair, I would like to ask for—I know we haven't even started—a two-minute recess to clarify something that may have been read incorrectly in the report.

The Chair (Mr. Bas Balkissoon): I have a request for a two-minute recess. Granted? Agreed?

Mr. Vic Dhillon: Thank you, Chair.

The Chair (Mr. Bas Balkissoon): Quickly.

The committee recessed from 1311 to 1314.

The Chair (Mr. Bas Balkissoon): Could I ask all members to take their seats. We'll call the meeting to order.

Mr. Norm Miller: Did we already adopt the subcommittee report?

The Chair (Mr. Bas Balkissoon): Well, that's what I'm checking with the clerk. There's been a small error in

the dates on the subcommittee report, so Mr. Delaney would like to make a small correction.

Mr. Bob Delaney: Chair, with the indulgence of the committee, I would like to correct clauses (8) and (9) on the subcommittee report. Let me read them as they should correctly be:

(8) "Subject to referral of the bill by the House, that the deadline for filing amendments be 12 p.m. on Friday December 4, 2009, as per the time allocation motion."

(9) "Subject to referral of the bill by the House, that the committee be authorized to meet following routine proceedings on Monday December 7, 2009, for clause-by-clause consideration of the bill, as per the time allocation motion."

This, Chair, is your amended subcommittee report.

The Chair (Mr. Bas Balkissoon): Okay, shall the report carry? Carried.

We'll go back to the deputants, but before I get to the first deputants, for the last couple of days—for the information of everyone in the room—we've had bells ringing, and members may have to leave to go and vote. If that should occur, I will recess the meeting about two minutes before voting time, and then we'll reconvene when the vote is finished.

By the rules of the time allocation motion, this committee must end at 6 o'clock this evening. We're here till 3 p.m. and then we reconvene at 4 p.m. in room 151 downstairs, and we carry on until 6 o'clock. At 6 o'clock the meeting ends, so I will be watching the clock very closely on deputants.

Mr. Norm Miller: Mr. Chair, I would just say that I have probably received 200 e-mails from people who are concerned about asking that the bill not be rushed through, so I wonder why the government is proceeding with such haste to rush this legislation through when there is obviously a lot of public concern about—people would rather the government took its time and got it right.

The Chair (Mr. Bas Balkissoon): Any comment from the government side? No?

EMPLOYMENT PROTECTION
FOR FOREIGN NATIONALS ACT
(LIVE-IN CAREGIVERS
AND OTHERS), 2009

LOI DE 2009 SUR
LA PROTECTION DES ÉTRANGERS
DANS LE CADRE DE L'EMPLOI
(AIDES FAMILIAUX ET AUTRES)

Consideration of Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000 / Projet de loi 210, Loi visant à protéger les étrangers employés comme aides familiaux et dans d'autres emplois prescrits et modifiant la Loi de 2000 sur les normes d'emploi.

CAREGIVERS' ACTION CENTRE

The Chair (Mr. Bas Balkissoon): Okay, we'll go to the first deputant. The first deputant is Caregivers' Action Centre. Pura Velasco, come forward. State your names for the Hansard record. You have 10 minutes. If there is any time left after your presentation, we will allow questions.

Ms. Pura Velasco: Good afternoon, everyone. Thank you for the opportunity to speak with you this afternoon. My name is Pura Velasco, a former caregiver and an organizer with the Caregivers' Action Centre.

The Caregivers' Action Centre, or CAC, is an organization of current and former caregivers under the live-in caregiver program and is committed to improving the lives and working conditions of caregivers. It strives to improve policies and legislation governing temporary foreign workers.

Over the years, CAC has been involved with numerous consultations with caregivers in diverse communities. We have heard from hundreds of caregivers about their concerns about violations they have faced on the job and gaps in the immigration system that make them vulnerable to different kinds of abuse.

One of the concerns we have heard over and over again are cases of caregivers charged exorbitant recruitment fees and other fees related to recruitment. Although, they pay huge amounts to get jobs, many of these caregivers have been released upon arrival, or in other words, were recruited to work for bogus employers by recruitment agencies. This puts workers at risk of deportation at the airport, while the recruitment agency faces no penalty.

We have heard many examples of workers asked to pay placement fees of \$3,500 up to as much as \$7,000 for female caregivers, for jobs that did not exist. The prevailing placement fee for a male caregiver is \$10,000. We have seen recruitment agencies charge for many other services. We have caregivers who have been turned into temp agency workers, charged for bogus labour market opinions, and asked to buy business numbers needed for filing income tax by workers. Workers are charged \$1,200 for labour market opinions and \$1,200 for business numbers. Workers are also being asked to pay the employer's taxes of \$1,200 every six months, plus 10% penalties for late payment of taxes.

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There are many caregivers now dealing with recruiters who are not able to produce real T4s and ROEs, which the workers need to file their permanent residence applications. These recruiters have accountants who charge exorbitant fees for their services by justifying that the services they provide are outside of normal tax preparation services. A regular income tax preparation service would cost caregivers \$250, so you can imagine how much it would cost a caregiver to buy a backdated ROE and T4. And because of the growing tension and conflicts between the caregivers and recruiters, recruiters are resorting to all sorts of threats, such as deportation or death threats. The recruiters would brag that they

themselves would report to the Canada Border Services Agency or CIC those uncooperative caregivers who violated the LCP regulations.

The LCP supports the goal and purposes of the proposed legislation, introduced by the Ontario government, which recognizes that agencies and employers are able to exploit conditions created by the federal live-in caregiver program under the temporary foreign worker program. Bill 210 takes an important step in regulating recruitment agencies and employers and prohibiting all fees charged to caregivers. This bill addresses what we have heard from caregivers around recruitment fees and the confiscation of their property such as passports and SIN cards.

It is important that Bill 210 prohibit all fees, including those fees charged for professional services which, as I have described, can be very exploitative to workers. Most recruiters and other individuals, including employers, would demand that caregivers pay all the recruitment fees before they get the labour market opinion. This is paid either in the Philippines or in other countries where the caregiver is working. Bill 210 must be amended to ensure that fees can be recovered, whether the fees were paid in Canada or offshore, as is the reality for most caregivers.

For most caregivers, employers are involved in the collection of fees and the confiscation of documents. Bill 210 must be amended so that employers bear joint liability with recruiters and their subagents for illegal fees. Joint liability is absolutely essential to ensure that the government can enforce Bill 210 effectively.

Bill 210 provides some important steps for caregivers. However, CAC believes that Bill 210 must be amended to include temporary foreign workers and resident workers who face employment placement fees.

Most caregivers who came as “released upon arrival” encounter big problems of not meeting the requirements of the live-in caregiver program. They become victims of scams as they look for the ROEs and T4s they need to complete the program. The unlucky caregivers are disqualified from the program and they become temporary foreign workers under the temporary foreign worker program. These workers are paying fees to recruitment agencies for the jobs under the temporary foreign worker program. Caregivers become temporary foreign workers under the low-skilled category. This is the reason that the government should consider expanding the banning of recruitment fees for all temporary foreign workers and resident workers to catch all the violations that we are hearing about. If we don't include this big number of precarious workers, this will provide an incentive for the recruiters and employers to expand the charging of fees to unprotected workers.

Now I would like to address the issue that many caregivers cannot speak out about, their rights, until after they become permanent residents. Bill 210 is correct in allowing workers to file complaints up to three and a half years after an illegal fee was charged. This provision must be extended to the Employment Standards Act. We

have seen so many caregivers losing out on thousands of dollars of unpaid wages, overtime and holiday pay owing to them because they have missed the deadline by the time they can afford to file a complaint.

When they speak out, they risk everything, including their status in Canada. Caregivers can be reported by recruiters and employers to CIC. In order to ensure that caregivers will come forward about violations, the anti-reprisal provisions of the bill should explicitly prohibit an employer or other party from forcing repatriation on an employee who has filed a complaint under Bill 210 or the Employment Standards Act.

In conclusion, CAC supports the passing of Bill 210, and we would like to reiterate the following recommendations:

(1) Protections in Bill 210 need to be extended to all workers under the temporary worker program.

(2) Employers and recruitment agencies must be jointly liable for any prohibited direct or indirect fee charged to workers regardless of where and how the fee was levied.

(3) Live-in caregivers and temporary foreign workers need broader protections and enforcement under the Employment Standards Act. Thank you very much.

The Chair (Mr. Bas Balkissoon): We've got about 30 seconds for questions. Mr. Miller?

Mr. Norm Miller: Thank you, Chair. I guess I'd just ask you: The abuses that you talk about, how widespread is that? Is it something that's very common or is it quite rare—the charges—

Ms. Pura Velasco: Unfortunately—sorry.

Mr. Norm Miller: —and the other various abuses? Go ahead. Sorry.

Ms. Pura Velasco: Sad to say, it's very widespread, and it's rampant.

Mr. Norm Miller: So, fairly commonplace?

Ms. Pura Velasco: And it's not only the unscrupulous recruiters and employers but also immigration consultants who are involved in these kinds of scams.

Mr. Norm Miller: Thank you.

The Chair (Mr. Bas Balkissoon): We have to move on. Ms. DiNovo?

Ms. Cheri DiNovo: Thank you, Pura, for all your amazing work on this and for the incredible witness that you bear to this entire issue. I just want to thank you on behalf of every resident of Ontario. Rest assured we're going to fight very hard for the amendments that you have proposed. We in the New Democratic Party support this bill. Thank you.

Ms. Pura Velasco: Thank you.

The Chair (Mr. Bas Balkissoon): On the government side, anybody?

Mr. Vic Dhillon: Would you agree that the practice of releasing has diminished in the past few months because of federal reforms?

Ms. Pura Velasco: Thank you for that question. No. The release upon arrival has not stopped.

Mr. Vic Dhillon: We're not saying “stopped.” Has there been any decline that you've noticed?

Ms. Pura Velasco: I don't think so.

Mr. Vic Dhillon: I see some people nodding.

Ms. Pura Velasco: I don't think it has diminished. As you know, nobody is running after—

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll have to move to the next deputant.

Mr. Vic Dhillon: Thank you very much.

Ms. Pura Velasco: Thank you.

CANADIAN ASSOCIATION OF PROFESSIONAL IMMIGRATION CONSULTANTS

The Chair (Mr. Bas Balkissoon): The Canadian Association of Professional Immigration Consultants, Mr. Phil Mooney. Please state your name for the record. You have 10 minutes. If there's any time left at the end of your presentation, we'll have questions.

Mr. Phil Mooney: Thank you, Mr. Chair and committee members. We appreciate the opportunity to speak to you today.

My name is Phil Mooney. I'm the president of the Canadian Association of Professional Immigration Consultants. I'm also a member of the Canada Border Services Advisory Committee, the Citizenship and Immigration Canada immigration practitioner advisory group, and the HRSDC immigration practitioners advisory group. I am a certified Canadian immigration practitioner located in Burlington, Ontario.

My colleague today, Mr. Nir Rozenberg, is also a certified Canadian immigration consultant who operates a caregiver recruiting agency in Markham.

First let me say that we support the intent of this bill and commend the Ontario government and the Minister of Labour for taking this initiative.

CAPIC members, as certified Canadian immigration consultants, assist caregivers by obtaining work permits so they can come to Canada, and by advising them of their rights under the Immigration and Refugee Protection Act both before and after they arrive in Canada.

Just like attorneys, we are regulated. We maintain client accounts for funds deposited with us, which are audited by the regulator. We carry insurance for errors and omissions, we have a criminal compensation fund and we operate under a rigorous code of conduct.

Today we'd like to use our deep understanding of the immigration system to help put this whole issue into perspective.

1330

It's sometimes useful to look back and see how we arrived at this point. Only then can we understand how best to move forward.

Today, you will hear that the process of bringing a caregiver to Canada requires many, many steps when done right. Many honest employers and agencies must have been doing it right as more than 6,500 caregivers gained permanent resident status in the 12 months prior to September this year. Given processing times, these are individuals who first came to Canada in 2005-06.

In general, the vast majority of caregivers are chosen carefully by employers who follow the rules and who are assisted by agencies who work with the employer to ensure that the caregiver meets their needs. This past year, 10,511 live-in caregivers entered Canada to work—approximately 55% of those in Ontario. What is a little troubling is that about 20,000 labour market opinions were issued at the same time.

Normally the system works well, but when done by those who would manipulate it, only two steps are required to be real and verifiable. There must be a real labour market opinion and a real work permit. The labour market opinion, or LMO, is entered into the HRSDC computer system and accessed by CIC. The bad guys cannot access the computer system. The work permit is a government-issued document based on a well-established process common to all temporary foreign workers and their applications.

But nothing else has to be real. In the world of those who would abuse the system, there does not have to be a real employer or a real qualified caregiver. Both can be faked and, until the start of 2009, it was very easy to do.

Before 2009, to get an LMO for a caregiver, no advertising was required. The paperwork was limited and easily assembled. Nor was there any follow-up to validate that the job was real. Stories abound about individuals being asked to sign a bogus LMO application and supply a few papers in return for cash.

The work permit application process was somewhat tougher but, in general, the LMO was respected. Until 2005, the process was relatively quick, especially since applicants could apply anywhere in the immigration system.

Then, in the spring of 2005, CIC changed the system by enacting delayed provisions of the Immigration and Refugee Protection Act. Applicants were required to file in their home countries or where they were working at the time. A huge backlog developed in the Philippines, which created a demand in Canada for those who could supply caregivers quickly. Enter the bad guys.

Soon, a pipeline was established that saw the unscrupulous recruiters and agents supplying the employers with caregivers immediately, even though the names on the work permit did not match the names on the LMO and the LMOs were mostly or completely fraudulent. Some of the employers and even some of the caregivers willingly participated in the fraud.

Those were the salad days for the abusers, taking in easy money without any fear of getting caught. There was a never-ending stream of caregivers in the pipeline on the way to Canada and a strong demand for their services with no monitoring after the fact and a very vulnerable worker population motivated to not make waves. Rules about work permit renewals or portability were ignored and the new LMOs were easily obtained.

After many complaints and more and more extreme examples of abuse, things started to change late last year and have continued into 2009. HRSDC required that all employers get a Revenue Canada tax number. Then, they

insisted on an advertising requirement that included the Service Canada job bank and another source. Finally, employers had to include an attestation from a recognized professional as to their own identity.

Further changes are on the way. Visa posts are now calling employers in Canada to ensure that caregivers have shown up and were really working where it said they were working. Most importantly, the CBSA is calling employers when the caregiver gets to Canada, and if there is no confirmation of the employment are refusing entry and putting the caregivers back on the plane. This is happening in substantial numbers now.

Even Air Canada is asking for a letter from the employer or they don't let the caregiver on the plane because they're responsible for the cost of flying them back. As a result, from hundreds of caregivers every month being "released upon arrival," which is a particularly onerous term, with no job and crushed dreams, the numbers have been reduced to a mere handful. Of course, this has now transferred the problem back to their home countries, but at least they are not easy prey for the cultures who circle the airport departure areas.

As a result, in a few short months since this bill was first proposed, the situation has changed completely. This is all to the dismay of the bad agents in Canada and abroad. Inland, their source of victims is drying up. Overseas, they're facing complaints from caregivers who were forced to return to their home countries, and who are demanding refunds and going after these agencies with the support of their families.

More help is coming with planned changes to the monitoring of LMOs by HRSDC and changes to the overall temporary foreign worker program, which have already been gazetted.

Bill 210, by adding employment standards compliance to these efforts, will be very helpful. However, the bill needs a few simple amendments, or the result will be, in effect, to snatch defeat from the jaws of victory.

The bill seeks to ensure that caregivers do not pay the cost of recruiting. This is a very good idea, and in line with what other provinces have already implemented, particularly in BC and Alberta. But like the Manitoba legislation, this bill goes further and states that recruiters cannot also charge for voluntary professional development services or for immigration services. For many of these honest, ethical businesses, provision of these services is their lifeblood as they compete with the bad agents. It differentiates them from the "body shops." By providing high-quality voluntary services like CPR training and menu preparation to caregivers who wish them, for a fee, they can compete with the bad agents who charge employers nothing for recruiting and charge extortionate fees to the caregiver.

What are the bad guys going to do after Bill 210 becomes law? I suspect that they'll just figure out a way to get around it.

If Bill 210 does not change, the costs to employers to bring in a caregiver will double or triple. This will make them very easy targets for bad agents offering them

caregivers for small or no recruiting fees. Many will give up altogether and try to find other, less expensive methods of daycare.

Bad agents will respond to the possible decline in revenues by marketing individuals with no skills who have paid even more extortionate fees to them, and by supplying questionable documents for references and educational backgrounds. Bad agents will ensure that when HRSDC or CBSA or even CIC calls, someone will be there to answer the phone with the right answers. Bad agents will just pay more to get phony employers to file for LMOs.

As with all such programs, the fight won't be over; the fight will continue. But to win the fight, we must all work together. If Bill 210 is not amended, the government loses their most important ally in the fight against the bad agents, an ally who not only understands the industry but is also prepared to take the fight overseas, where governments typically can't go. These allies offer a direct and ethical alternative to the bad agents inside Ontario and in all the source countries. These allies are the reputable recruiting agencies and the regulated professionals who work with them or for them.

The Chair (Mr. Bas Balkissoon): You have one minute left.

Mr. Phil Mooney: Thank you.

How difficult are the changes we need to make? Not difficult at all. The government simply has to issue a list of prescribed voluntary services for which recruiters can charge caregivers. If there is not time to do so now, the government can simply delay this section from coming into force while it consults with stakeholders on this issue.

Why have they not already been included? In our opinion, it's because of a fear that ethical caregiver agencies, lawyers and certified Canadian immigration consultants will bundle recruiting fees into their prices for professional development or immigration services. We believe that fear to be unsubstantiated. We can provide appropriate checks and balances that will ensure it does not happen.

Visa officers have unfettered discretion to refuse a work permit if they believe that the applicant is being taken advantage of. Let them make the decision by supplying them with all the relevant facts.

We also encourage the government to consider the setting up of some sort of recruiter registration and possibly licensing, as they have in other provinces. We understand there are cost considerations, but we believe this method—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on to the next deputant.

Mr. Phil Mooney: Thank you.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair (Mr. Bas Balkissoon): The next deputant is Parkdale Community Legal Services, Mary Gellatly.

Please state your name for Hansard. You have 10 minutes, as everyone else, and if you leave any time at the end, we'll allow questions.

Ms. Mary Gellatly: Mary Gellatly.

We applaud the government for taking these important steps to improve protections for caregivers. At Parkdale Community Legal Services, we work quite a bit with caregivers, like one caregiver named Maria, and I'm going to tell you a bit about Maria's situation.

She was told that she would have to pay an agency \$3,000 for a job under the caregiver program. While she was still in her home country, a representative of the Ontario agency came and collected \$2,000. When she landed in Toronto, the agency said, "Sorry, there's no job for you, but when you do get one, you still owe us \$1,000."

Bill 210 will help workers like Maria. Prohibiting recruiters from charging fees, preventing employers from charging caregivers for the costs of recruitment and replacement, prohibiting employers and agencies from taking and keeping caregivers' passports, and recognizing in the bill that the federal live-in caregiver program rules really prevent workers from enforcing their rights until they've completed the program: These are all really important changes and part of the government's goal of improving protections for caregivers.

1340

The government is quite right to prohibit all direct and indirect fees for recruiting and job placement. Most provinces and territories across Canada already prohibit fees for placement. This will simply bring Ontario into line with those practices. Instead of causing hardship for recruiters, it merely puts Ontario's agencies on a level playing field with agencies in other provinces.

We're probably going to hear from a few recruiters today who say they want to be able to charge caregivers fees for professional services or some form of services. I think we have to see, based on people's experience, that this is merely an indirect way to charge workers fees. Bill 210 is right to prohibit all direct and indirect fees, including for things like resumés and other "professional services." Menu preparation would be one of those as well.

There can be no room for exceptions, because exceptions create legislative loopholes that recruiters will use to bypass the intent of the fee prohibition. We would also even argue that subsection 7(2), which allows for exceptions to be prescribed, should be deleted because it signals an intent, down the line, to allow for exceptions to be brought into being.

I think the government took a really good step with Bill 139, the temp agency act, when it prohibited all manner of fees, an across-the-board prohibition on all fees, including for professional services, because it recognized that temp agency workers are not in a position to refuse to a body that they're reliant on to get work. Caregivers are in the same, if not worse, situation, with no labour market mobility. The incredibly vulnerable position they're in with agencies means that caregivers

do not have the power to refuse these so-called voluntary fees for services because they're risking not only their jobs but their very future in the province.

I think the other point on that: I don't think we should contemplate giving any legislative sanctioning of private employment services when Citizenship and Immigration Canada are funding free employment services for newcomers, caregivers and foreign temp workers, and that's an appropriate thing to do.

I think Bill 210 is moving in the right direction, but there are three amendments that we believe it would be important to consider to improve this legislation. Going back to Maria, she very easily could have also been a foreign temp worker who faced fees for job placement in Canada and faced the same kinds of conditions. The amendment we're seeking is to extend the application of Bill 210 to, at the very least, apply to all temp foreign workers. There are tens of thousands of temp foreign workers who are facing fees, having their passports seized and being placed in quite bad housing situations. Failure to include and extend the bill to temp foreign workers at this point really would create an incentive for agencies to expand their fee charging practices to these unprotected workers. My colleagues from the Workers' Action Centre are going to touch on that a bit more.

Our second amendment—and I want to go back to Maria again. She had paid most of her fee offshore. Fee charging practices vary across the board. Some agencies charge here; some charge overseas. That's why we had to look really carefully at what the provisions and the tools are that we're putting in place to ensure that those fees can be recovered, particularly when you've got legislation that's fundamentally relying on caregivers, the people who have the least power in this situation, to enforce fee recovery through the claims process. So we're recommending one way to do that, which is that employers and agencies be jointly liable for any prohibited direct or indirect fee charged to a worker under the act.

Recruitment is a service. The employer pays the agency through the contracting for the service. Employers can compel agencies to comply with the prohibition of charging fees as a condition of their arrangement. So an employer contracts the agency, and until it is established that there are no illegal fees paid, the employer withholds payment until that is clearly established. If the agencies charge illegal fees, the employer withholds payment and it is remitted to the worker.

The experience in Alberta is quite instructive. In Alberta, you have a high number of temp foreign workers and you've got a prohibition on fees. But you talk to folks in Alberta and they're experiencing high numbers of violations and people paying fees.

Joint and several liability is an important tool in common law and other areas of employment law. It's tested; it works. Liability for non-compliance and prohibitive fees in job placement shifts that liability to agencies and to the employers that benefit, and basically takes the responsibility for recovery of those illegal fees

away from workers, who have the least power and whom this law is to protect.

Thirdly, I just want to return to Maria. After coming here without being placed, she got herself a job looking after an elderly woman. The woman's son paid her half of the wages that were part of the employment contract that she signed. He said, "Well, the reason you're getting half the wages is because I'm giving you a job with which, two years down the road, you're going to be able to apply for permanent residency, and that's a cost for giving you that 'opportunity.'" By the time Maria was able to get out of that job, she was owed over \$21,000 in unpaid wages and entitlements for vacation pay and public holiday pay.

There are huge gaps in protections for caregivers, in addition to fees and recruitment costs. Bill 210 really—and, I think, rightly—recognizes that the terms and conditions of the live-in caregiver program that require people to work 24 months in a 36-month period; that require women workers, largely, to live in their employers' homes and limit mobility out of exploitative situations; and make it really difficult for caregivers to file claims and try to recover their unpaid wages within the six-month time limit that is allowed under the Employment Standards Act.

This is why, under Bill 210, I think the government has recognized that and extended the time limits to three and a half years. So that time limit, which recognizes the barriers, is a very important part of the bill.

The Chair (Mr. Bas Balkissoon): If I could ask you to wrap up—you have less than a minute.

Ms. Mary Gellatly: Okay, I will try to do so.

Basically, what we're saying is that that principle recognized in Bill 210, to extend the time limits because of the federal immigration rules, must be extended to allow caregivers to also recoup unpaid wages and entitlements under the Employment Standards Act. Extend that principle to provide full protection for caregivers not only for fees, not only for one area of rights, but for all rights. That's the basis of it.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thanks for coming.

WEE CARE PLACEMENT AGENCY AND IN A PINCH TEMPORARY CARE

The Chair (Mr. Bas Balkissoon): We'll move to our next presenter, Wee Care Placement Agency and In a Pinch temporary care: Robyn Zeldin and Dani Katz. Please state your name for Hansard. You have 10 minutes, like everyone else. If you leave any time, there will be questions.

Ms. Robyn Zeldin: I'm Robyn Zeldin.

Ms. Dani Katz: I'm Dani Katz.

Ms. Robyn Zeldin: Thank you very much for this opportunity to speak on behalf of many reputable nanny recruitment agencies. My name is Robyn Zeldin. I'm a mother of two and the owner and operator of Wee Care Placement Agency and In a Pinch temporary care ser-

vices in Toronto. This is Dani Katz, who has worked for me for over five years.

We are here today to express our support for and concerns about Bill 210. We understand the government's reasons for putting this bill into place and agree that the exploitation of caregivers must come to an end. However, there will be grave unintentional consequences to passing this bill in its current form. We urge you to listen to our voice.

1350

Wee Care has been in business for 13 years, during which we have always worked to support caregivers and maintain a high quality of care for all our clients and families in Canada. We have always had true, legitimate employers and a very high success rate. We have constantly advocated for the rights of caregivers by educating our clients about the laws, rules and regulations of the live-in caregiver program. We have always advised on appropriate hours, wages and living conditions.

When I first started this business 13 years ago, there was virtually no sponsoring. People were forced to employ illegal nannies, transient solutions that did not work and caused extra problems. In 2000, the law changed, and it became easier to sponsor and bring caregivers from abroad to a country of opportunity. However, with the change, it was no longer necessary for agencies to hold a licence, and the industry became deregulated. We also know that some caregivers were mistreated, and we have listened to some terrible stories; however, they are only a small part of the spectrum.

The more caregivers who came into the country, the more families we had who were able to go to work every day knowing that their children were well taken care of. Many families sponsored caregivers, brought them over and employed them as their caregivers, which was the intention of the program. Many of the caregivers became part of various Canadian families, were treated with respect and stayed with these families for many years. These are some of the good stories that touch our hearts every day. The program at this time was working. Families and caregivers alike were content and happy, and that was truly a mutual equilibrium.

While we see many amazing stories, we're also aware of the negative stories, and we're always there to help caregivers and find them positions within families that would treat them properly.

When the negative publicity hit recently, the government put new standards into action, which have improved the authenticity of the program. Employers now have to advertise, have an attestation of identity signed by a guarantor and prove that they have tried to recruit Canadian citizens. Service Canada calls every single employer to verify his or her application. The Canadian consulate in Hong Kong checks addresses, availability of private rooms and notices of assessment to verify that the employer can provide properly and financially for the caregiver. Finally, the Canada Border Services Agency calls each employer upon the caregiver's arrival, again, to check authenticity.

It all works. We have seen, as a result of this, that the number of caregivers entering has been drastically reduced, and more have been coming to authentic employers. This has been most noticed as the pool of local candidates has dropped immensely.

Bill 210 outlines that an employer would be responsible for all costs associated with sponsoring. This includes professional development permits, airfare and all paperwork associated with the sponsor. We also advise all employers to pay private medical coverage, which is approximately \$240, until OHIP comes into force. The approximate amount is \$6,000. If the bill is passed the way it currently stands, no employer will pay that sum of money to sponsor someone whom they have not met, especially with no guarantee that they will even show up and work successfully.

Most two-income, middle-class families that rely on caregivers for the sole reason of child care simply cannot afford these extra costs. This would be a massive burden on a family, never mind the fact that these are just the start-up costs. The caregiver's salary has not even come into play. During these economic times, it is almost impossible for families to pay these large sums in association with obtaining quality child care.

A number of months ago, we had a client who resided in London, Ontario. It was virtually impossible for them to find a caregiver locally in that area, and that client sponsored someone from Hong Kong. The woman they sponsored accepted the job with the full knowledge of where the employer resided, what the surrounding area was and how long it would take her for transportation into Toronto to visit her sister.

When she arrived, our client drove two hours to the airport and held up a sign to meet the caregiver. They had waited five months for her to come. The caregiver walked right past the employer and took a taxi to her sister's house. When we finally found her, knowing that she arrived because of the Canada Border Services Agency, she admitted that she never intended to work in London, that it was simply too far from her sister. It was a disastrous situation for our client.

If the caregivers from abroad have no accountability for their sponsorship whatsoever, this will happen time and time again. We are constantly facing this challenge with clients outside the greater Toronto area. The caregivers themselves feel isolated in these areas because there is not a large network of caregivers, as they have in more central locations. Due to this fact, they often leave after a month's time. Why would an employer pay a large fee with no guarantee that the caregiver will stay?

With overcrowded daycares and waiting lists of five-plus years, child care in the future will become virtually impossible. The financial burden of an employer covering all the costs with no guarantee will mean that no one will be willing to put up that amount of money, causing no future sponsorships, no new caregiver arrivals in Canada, a shortage of affordable caregiver options and, ultimately, a downward spiral, causing a daycare-caregiver crisis.

We understand that you would like to model Bill 210 after Manitoba with a population of 1,119,583. Please consider that Ontario's population is 12 times that number, at 12,687,000. This is a drastic difference and will unintentionally create a catastrophic child care situation. There does need to be accountability to all caregivers, employers and agencies. We would recommend licensing agencies, creating government employer and employee contracts that would protect the workers from exploitation, and the employers as well.

We are Canadian citizens and taxpayers and we work very hard to support our families. We feel we are treated like criminals when we have done nothing wrong. We have always done everything by the book, and with this new bill we can see that the live-in caregiver program will be no longer in existence, and neither will our businesses.

We do support Bill 210 and to protect the caregivers from exploitation and abuse, but we implore you to go slowly and take into consideration section 7 of Bill 210. It is crucial for you to understand the consequences of this bill if passed in its current form.

Understand that there are reputable agencies already in existence that want what is best for everyone, and please understand that there are success stories that do exist. We believe the good far outweighs the bad. However, no one seems to be taking this into consideration.

We plead with you to exempt the fees for professional development and immigration consulting within the regulations, as is the case in BC and Alberta. We are concerned with the speed with which this bill is passing through the legislative process. Please examine the impact on all areas and all sides. No one wants to see a daycare-caregiver crisis happen to this province.

The Chair (Mr. Bas Balkissoon): Thank you. We've got about 30 seconds for each side. Ms. DiNovo.

Ms. Cheri DiNovo: We in the New Democratic Party don't want to see that either. That's why we're advocating for what we've always advocated for, which is a daycare program that people can afford, like they have in Quebec and Manitoba: \$7 a day or \$17 a day. But thank you very much for your deputation.

The Chair (Mr. Bas Balkissoon): The government side?

Mr. Vic Dhillon: I just want to say thank you for your presentation.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: Your big concern is this \$6,000 in extra costs. I think the couple of hundred e-mails I've received have stated a similar concern. How do you protect the vulnerable caregivers and also allow businesses like yours to stay in business and provide the services you do?

Ms. Robyn Zeldin: If this comes into play, we don't know if we will be able to stay in business—correct—because employers will not put up the \$6,000, what we estimate it to cost, in order to employ a caregiver. Therefore, they will no longer bring caregivers into the

country, and in a couple of years there will be no caregivers left to employ.

The Chair (Mr. Bas Balkissoon): Thank you very much.

SHURE CONSULTING SERVICES

The Chair (Mr. Bas Balkissoon): We'll move on to the next presenter, Shure Consulting Services: Deborah Shure. Please state your name for the record. You have 10 minutes like everyone else.

Ms. Deborah Shure: Thank you. Good afternoon. My name is Deborah Shure. I am a mother of three young children. I have employed three nannies through the foreign live-in caregiver program in the last seven years, and I'm the founder and owner of Shure Consulting Services, nannytax.ca, Canada's provider of payroll tax services to employers of nannies and elder caregivers. We are in our fourth year of providing nanny tax services, and while my company is not an agency, I must speak out against the well-intended but economically damaging Bill 210, which is currently being put forth.

By disallowing agencies from charging caregivers, not only does this bill have the potential to put the good, upstanding agencies out of business, but the results will reach even further.

1400

Without these agencies, the people using the live-in caregiver program, employer and employee alike, are put in a vulnerable situation. My company works with a number of agencies in Ontario that refer clients to us to ensure that employers are paying their nannies or elder caregivers fairly, that the appropriate taxes are being deducted, that tax paperwork is being completed, that the employers are registering with the Workplace Safety and Insurance Board in Ontario, and that employment obligations as laid out by Ontario's standards are being met, including being paid out vacation pay, public holiday pay and termination pay, if necessary. I can sympathize with the caregivers that we've heard about that are being charged high fees for tax returns and for possibly getting a business number. Shure Consulting Services charged only \$25 plus GST to complete foreign live-in caregiver tax returns for the 2008 tax year. We also only charged \$25 plus GST to get a business number, which is a fee to the employer.

My main concern is that one of the obligations of the employers involved with the foreign live-in caregiver program is not being addressed. To ensure that people coming to Canada under this program are working legally means that their tax and other source deductions are being paid by their employers. Then, at the end of the program, the foreign worker can apply for an open work permit and permanent residency. One of the requirements is a minimum number of months—which is 24—and hours—which is 30 hours per week—for which the caregiver was paid. Should this bill be passed in its current form, more families, in order to save money and possibly recoup the cost of agency fees, will only pay their nanny

or caregiver for the minimum amount required, or 30 hours per week.

Bill 210 attempts to disallow employers from recouping agency fees' costs from their employee. However more employees and employers would feel that they would benefit by being paid in cash, if not in full but in part. As we all know, this type of economics does not do society any good. So the results of passing Bill 210 would be to support and promote the use of the underground economy and will result in the loss of millions of dollars in both provincial and federal tax revenues. Based on my calculations, losses would be over \$8 million annually. Without amending this bill to require licensing of agencies rather than disallowing caregivers from being charged for services they are being provided, this province is taking a step backwards.

Another scenario, should this bill be passed in its current form and the good, legitimate agencies cannot operate, is where the employer is unaware of their obligations to pay the Canada Revenue Agency and the Workplace Safety and Insurance Board. Should the agencies that are doing an exemplary job no longer exist? Many employers may only find out years after hiring their caregiver that they were supposed to remit source deductions and pay WSIB premiums. It's a very costly mistake and one that I have seen happen on numerous occasions when my clients were coming from sources other than these agencies.

I ask that you reconsider the direction that Bill 210 is taking. The repercussions of the bill in its current form are far-reaching. The amendments suggested, namely requiring the licensing of agencies and continuing to allow agencies to charge caregivers for certain services, make more economic sense. We need to focus on a process that promotes ethical practices and provides support to small businesses, families and the economy. Bill 210, as it stands, does the opposite of this. It will destroy small businesses and put a financial burden on all Ontario families and on the economy.

I ask you, as a mother, an employer, a business owner and a Canadian to seriously think through the implications of Bill 210, make the amendments brought forward, and delay section 7 from coming into force.

The Chair (Mr. Bas Balkissoon): You left lots of time for questions. I've got about a minute and a half each. Government side: Mr. Delaney.

Mr. Bob Delaney: How many caregiver clients do you have?

Ms. Deborah Shure: I work across Canada, so I have hundreds across Canada.

Mr. Bob Delaney: Hundreds? How many hundreds?

Ms. Deborah Shure: Three hundred currently. I get clients calling every day.

Mr. Bob Delaney: So you're saying that it costs you \$2,500, \$5,000, \$7,500 just to prepare some T4s?

Ms. Deborah Shure: I'm sorry?

Mr. Bob Delaney: I'm just doing the math. How much does it cost you to prepare your T4s?

Ms. Deborah Shure: I charge my employers an annual fee of \$300.

Mr. Bob Delaney: So how do you recover that money?

Ms. Deborah Shure: I'm not sure what you're saying.

Mr. Bob Delaney: Do you have any permanent employees?

Ms. Deborah Shure: I have one person who works for me part-time.

Mr. Bob Delaney: Do you charge your permanent employees for preparing their T4s?

Ms. Deborah Shure: I don't have any permanent employees.

Mr. Bob Delaney: Didn't you just say that you had one permanent employee?

Ms. Deborah Shure: I have one part-time person who works for me on a consulting basis, and I pay her an hourly wage.

Mr. Bob Delaney: Do you charge that person for preparing a T4 at the end of the year?

Ms. Deborah Shure: I don't prepare a T4 for her because she's not my employee; she's an outside consultant.

Mr. Bob Delaney: That's fine. Those are all my questions. Thank you.

The Chair (Mr. Bas Balkissoon): We'll move on to the PCs. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation today. I gather that what you're saying is that the change that you'd like to see is you'd like to require all agencies to be licensed. I'm not that familiar with this, but I assume you're not required to be licensed now? Is that correct?

Ms. Deborah Shure: I'm not an agency, but no, from what I understand, licensing is not a requirement in Ontario. I think that's what BC and Alberta have brought forward.

Mr. Norm Miller: And your concern is that by not allowing some charges, a lot of these small businesses will no longer be able to stay in business.

Ms. Deborah Shure: Exactly. No, they won't be able to stay in business because the families won't be able to afford to pay the fees that would be required to provide their services.

Mr. Norm Miller: And is that \$6,000 fee that a previous person talked about a fair estimate or is that—

Ms. Deborah Shure: Again, I'm not an agency so I don't see the work that they do. I know what I do. I do the tax remittance calculations—the CPP, EI and provincial and federal tax deductions. I keep my clients up to date, so as taxes change, I give them an update, a new breakdown of what they should pay the caregiver. Then if they decide to give their caregiver an increase, I give them a recalculation. I file the T4s for them and I do the record of employment if the employment ends. I provide pay stubs. I do all the—

Mr. Norm Miller: And—

The Chair (Mr. Bas Balkissoon): I have to move on to Ms. DiNovo.

Ms. Cheri DiNovo: I certainly recognize the work you do. I used to own an agency and we charged fees only to clients, never to applicants. That was the rule before Mike Harris changed it, so this is, in a sense, not inventing anything new.

Quite frankly, the fees that we charged—10% to 20% of their annual salary—were considerably above the \$6,000 you mentioned. It was simply a cost of doing business, and our clients willingly paid it for the folk that they hired. Our agency was 90% women as well. I don't really see the argument for not charging a clients' fee—

Ms. Deborah Shure: I think my concern—

Ms. Cheri DiNovo: Excuse me for a second. That's number one. Number two, enforcement: You made the point about driving people to the underground economy. But this is true of all laws, right? All labour laws need to be enforced, and there I would absolutely agree with you. What we need from the government side and what we'd like to see is more employment standards officers actually enforcing these laws better and making random checks on houses, making random checks on employees and actually bringing to bear the weight of this law.

I just wanted to bring my background to the table and say that it's really not necessary to charge fees to applicants.

The Chair (Mr. Bas Balkissoon): Thank you very much.

WORKERS' ACTION CENTRE

The Chair (Mr. Bas Balkissoon): I have to move on to the next deputant, the Workers' Action Centre: Sonia Singh and Deena Ladd. Please state your name for the record. You have 10 minutes like everyone else, and if there's any time left we'll allow questions. Go ahead.

Ms. Deena Ladd: Thank you. My name is Deena Ladd and I'm the coordinator of the Workers' Action Centre. The Workers' Action Centre commends the Ontario government for introducing Bill 210 to ensure that foreign nationals who are live-in caregivers have increased protections. We agree that women and men from around the world should not have to pay for the fact that Canada does not have an affordable child care program, and we also agree that workers from around the world should not have to pay the costs of business and employers. I think that if the same arguments were being made for other workers in Canada who regularly go to work and are not asked to pay this range of fees—I think it's outrageous that the agencies are putting this forward.

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We support the goals and purposes of the proposed legislation and the protections, such as prohibiting recruiters from charging any fees; preventing employers from recovering costs from caregivers; prohibiting employers and recruiters from taking and keeping a caregiver's passport, work permit and other personal documents; and allowing live-in caregivers up to three and a half years to make a complaint. These are all incredibly vital protections that are going to improve the lives of caregivers.

The Ontario government recognizes that agencies and employers are able to exploit conditions created by the federal live-in caregiver program under the temporary foreign worker program. I think the bill seeks to address some of these gaps in employment standards that allow agencies and employers to exploit live-in caregivers in Ontario.

We think that the bill provides some incredibly important steps forward for caregivers. However, we believe that the government really needs to extend the application of Bill 210 to include all temporary foreign workers.

At the Workers' Action Centre, we run a hotline in six languages. We do workshops in the community and do lots of outreach to newcomers. Increasingly we've been getting calls from workers who are here under the temporary foreign worker program.

I want to give you an example of two young men we worked with, Hiten and Suresh, who worked under the temporary foreign worker program. They were both offered jobs in Ontario, working for a caterer under that program. The workers were told that they would have standard working conditions and that they would be provided with living quarters. Hiten and Suresh understood that the employer would pay each of their families in India the equivalent of C\$350 per month and that they would personally receive \$67 per month, which worked out to be \$2.60 an hour.

When Hiten and Suresh arrived in Toronto, their passports and work permits were seized and held by the employer. They joined other temporary foreign workers of the caterer, sleeping eight to a room and working over 70 hours a week. After working long days in the kitchen, the workers returned to their sleeping quarters, only to find packages of food that had to be labelled for the employer's store.

The families of both these workers ended up receiving only \$700 each. These workers were owed well over the \$10,000 maximum amount recoverable under the Employment Standards Act by the time they could actually leave their jobs.

Other experiences of temporary foreign workers:

—A worker paid an agency \$10,000 to be placed in a food processing plant. More than a third of the workers at the factory were also temporary foreign workers who had paid similar fees. The employer had seized and held the workers' passports.

—We worked with a worker whose employer had charged him almost \$4,000 to work under that program in his restaurant in Toronto. The worker was also charged indirect fees. The employer made him pay for the airfare. The employer also confiscated the worker's passport. The worker required police assistance to obtain his passport.

—The International Organization for Migrants acts as a recruiter for workers from Guatemala, charging workers \$500 for jobs.

—Temporary foreign workers working as agricultural workers are charged \$500 to \$1,000 in recruitment fees from an in-house recruiter of the company.

—Temporary foreign workers working in the hospital industry report paying \$1,000 each to recruiters to get their positions.

—Temporary foreign workers hired to work in the health care sector paid close to \$5,000 for work but were not informed by the recruiter that their licences would only be valid for six months.

The failure to expand the application of Bill 210 would not only exclude from protection tens of thousands of workers in Ontario like Hiten and Suresh and all the examples that I've mentioned but it would also create incentives and loopholes for recruitment agencies to expand fee-charging practices for these unprotected workers.

The government needs to take very seriously the unintended consequence of, on one hand, providing much-needed protections for caregivers, but on the other hand, worsening the situation for other workers coming in through the temporary foreign worker program. These workers will be left abandoned in the same plight that caregivers are in right now but at the mercy of recruiting agencies and employers using abusive and exploitative practices. It just does not make sense.

We know that it is extremely difficult for workers under the temporary foreign worker program to come forward, as the employment standards rights and fee prohibitions contemplated under Bill 210 rely on workers making individual complaints.

The system of work permits under the temporary foreign worker program makes it virtually impossible to complain, because for many it means immediately losing your housing, income and future work, and the real consequence of being deported back home, all the time being owed thousands of dollars. The government, we feel, should return to the broad scope outlined in its original consultation paper, which is A Consultation Paper on Foreign and Resident Employment Recruitment in Ontario. A comprehensive approach must be taken to accomplish the government's goal of protecting workers in vulnerable employment.

As such, there are a couple of important amendments that I'd like to reiterate that should be made to Bill 210. The first is that it be amended to ensure that no worker—temporary foreign worker, live-in caregiver or resident worker—faces recruitment or employment placement fees. We need to expand the application of the act to include all temporary foreign workers, and that includes seasonal, agricultural and resident workers.

As the International Labour Organization Multilateral Framework on Labour Migration makes clear, a whole range of categories of temporary foreign workers require this protection. We have a great opportunity here before us to do what's right for the thousands of workers who are looking for the leadership of this government to do the right thing, as it's already recognizing what's happening with caregivers. It needs to ensure that all workers need to have the same protection.

The other amendment that I'd like to make clear is that a comprehensive approach to enforcing new protections

is essential; otherwise, recruiters will simply move fee-charging practices offshore, which, again, we've had many experiences with.

Employers and agencies must be jointly liable for any prohibited direct or indirect fee charged to a worker. Liability for non-compliance with the prohibited fee would be borne by the agency and employer who benefit, not the worker.

The anti-reprisal provision of the bill should explicitly prohibit an employer or other party from forcing repatriation on an employee who has filed a complaint under this act or the Employment Standards Act.

The last amendment that we think is quite critical is that regulating recruitment practices is essential; however, there are many other gaps in employment standards that must be addressed to ensure that caregivers and temporary foreign workers have the same access to employment standards protections as other workers. So we would request that you extend Bill 210's three-and-a-half-year time limit on complaints about contraventions of the act to include complaints respecting unpaid wages and ESA entitlements.

The Chair (Mr. Bas Balkissoon): Thirty seconds each. Mr. Miller.

Mr. Norm Miller: Thanks for your presentation. You stated that there are other gaps in employment standards not being enforced. I guess I would ask: Are the current standards being enforced in the case of caregivers?

Ms. Deena Ladd: I think the issue of enforcement is a critical one with any legislation that's passed. As we've seen, any employment standards protections need—I think that all workers need to ensure that enforcement is happening. So obviously—

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll have to move to Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Deena, very much. Absolutely: We intend to fight for these amendments and we intend to support the bill in the New Democratic Party. Also, the backdrop of child care: We'll fight for that as well.

The Chair (Mr. Bas Balkissoon): The government side: Mr. Dhillon.

Mr. Vic Dhillon: With respect to joint and several liability: Is your position that employers should be responsible for the recruiters' charging of fees, even if the employers know nothing about the recruiters' misconduct?

Ms. Deena Ladd: I think it's about putting the onus of responsibility on employers, because the thing is that if people don't feel that sense of responsibility to ensure that they are using an agency to recruit someone and then not doing the kind of background checks to ensure that they're not engaging in those exploitative practices, we're not sure exactly how these practices can be stopped in the first place. We don't have that.

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on to the next deputant.

RONELL TABAFUNDA

The Chair (Mr. Bas Balkissoon): The next person is Ronell Tabafunda. You have 10 minutes. Please state your name for the record. If there's any time left, we'll allow questions.

Mr. Ronell Tabafunda: Good afternoon. Thank you for this opportunity to speak with you. My name is Ronell Tabafunda. I am a Libyan caregiver. My father, who is working in the United States, paid my placement fees, amounting to US\$8,000, or \$10,000 in Canadian dollars, to a Canadian recruiter through my aunt here in Toronto, in 2004.

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A day after my arrival in Toronto on September 10, 2007, I was shocked to learn—when I asked the recruiter where my employer was, he told me that they moved to another location. Weeks after, the recruiter told me that my employer no longer needed me.

Since my family paid so much money to this recruiter, I continued to go to his office asking him to find me another employer. He told me that he could not find a caregiving job for me because of my gender. I was deeply disappointed and disturbed by this situation. I was helpless since I had no money to pay for another recruiter.

On one of those days that I was at the recruiter's office, he introduced me to his contractor friend through the phone. The contractor offered me a job to work for his company as a drywaller. I had no experience in construction like this, but since I was desperate to survive in Toronto and to pay my debts, I accepted the job. I learned how to do drywall and other construction chores. I was paid \$10 an hour. The contractor would pay me \$1,600 monthly wages by cheque, but he also asked me to return to him \$330.48 in cash for the monthly taxes.

While I was doing the construction job, I did not stop looking for a caregiving job. I also continued to bug the recruiter about his promise of a caregiving job. After several months, the recruiter had applied for a labour market opinion for a caregiving job for me, with the contractor as my employer, since he has two sons. Now my immigration status under the live-in caregiver program is in question. I am considered to have violated the regulations of the live-in caregiver program. The recruiter lied about the caregiving job that he promised me.

What is sad and disturbing about my situation is that there are many caregivers who have had the same experience as me. I hope you will be able to help us with our situation. There are many of us who would like to recover the exorbitant recruitment costs that have been fraudulently collected from us here or abroad by recruiters, their subagents and by other parties involved.

Because of all that I have experienced, I believe it is very important to ensure that recruiters are not allowed to charge any fees to workers—not for recruitment, not for services, not for anything. This situation has given me so much stress and has put me at risk. I cannot sleep and I

have no peace of mind. This was not what I expected coming to Canada.

I want to make sure that no other workers face the abuses that I did. The government is taking an important step with Bill 210, and I encourage the standing committee to support the bill. However, I want to make sure that Bill 210 gives protections to all temporary foreign workers.

I know that many temporary foreign workers who are not caregivers are also charged fees and are abused by recruiters. Their families put an investment in them and used all their savings to pay recruiters, just like mine did. They deserve protection against these violations too. They deserve peace of mind. I urge the standing committee to amend Bill 210 to ensure it covers all temporary foreign workers.

I paid fees to a recruiter here, but I know many workers who have paid fees back home. Regardless of where the money is paid, whether here in Canada or overseas, the recruiter and the employer should be held responsible. Otherwise, they will just find ways to get around these new laws. I urge the standing committee to amend Bill 210 to make recruiters and employers jointly responsible for any illegal fees, no matter where the fees were paid.

Since I paid the \$10,000 recruitment fee in 2004, please also consider extending the limit of three and a half years for employment standards claims and make the legislation retroactive. There are many caregivers and temporary foreign workers who deserve to recover their fees.

Speaking the truth of what happened to me and to other temporary foreign workers is not easy. I have never done this before. I hope that the province of Ontario will work with the federal government on rectifying the injustice done to us by rogue recruiters and employers by letting us stay and continue to contribute to the Canadian society.

Thank you for the opportunity to speak to you today and share my experiences with you.

The Chair (Mr. Bas Balkissoon): You have about a minute each. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much, Mr. Tabafunda. Thank you for your courage in coming forward to speak to us. I know that can be daunting. Our job in the New Democratic Party is to fight for your rights, yours and others like you, so that others don't have to go through the same experience you have. That reiterates the need for that amendment to extend this bill to all foreign workers.

Mr. Ronell Tabafunda: Thank you so much.

The Chair (Mr. Bas Balkissoon): The government side: Mr. Dhillon.

Mr. Vic Dhillon: You mentioned—was it a \$10,000 recruitment fee that you were charged?

Mr. Ronell Tabafunda: Yes, sir.

Mr. Vic Dhillon: Other than that, were there any other fees that were charged?

Mr. Ronell Tabafunda: So far, no.

Mr. Vic Dhillon: Thank you.

The Chair (Mr. Bas Balkissoon): The PC party: Mr. Miller.

Mr. Norm Miller: Thank you, Mr. Tabafunda, for your information. Your telling your story is very much appreciated. The \$10,000 that your father paid: Did he pay that in the United States, or did he pay it into Canada?

Mr. Ronell Tabafunda: My father gave this money to my aunt in the United States, and then this aunt of mine in the United States forwarded this money to her sister here in Canada. The payment was paid here in Canada, and I have all the proof and receipts for this payment.

Mr. Norm Miller: Okay. I was just wondering, because you were talking about fees both here and abroad in your talk. Also, you said that when you were working as a drywaller, you were giving this money back, \$300—

Mr. Ronell Tabafunda: Three hundred and something, sir, for the tax—\$337.47 or \$337.48 for the monthly tax.

Mr. Norm Miller: The question I have is: It sounds like a bad employer who isn't following the current laws that we have in the province, so how do you stop those bad employers from just ignoring whatever new laws are passed? That's probably not a question you can answer, but thank you for your presentation.

The Chair (Mr. Bas Balkissoon): Thank you very much. Thanks for coming.

JUSTICIA FOR MIGRANT WORKERS

The Chair (Mr. Bas Balkissoon): We'll go to the next deputant, Justicia for Migrant Workers, J4MW; Chris Ramsaroop. Please state your name for the record. You have 10 minutes, and if there's any time left at the end of your deputation, we'll allow questions.

Mr. Chris Ramsaroop: Good afternoon. My name is Chris Ramsaroop. I'm an organizer for Justicia for Migrant Workers.

Thank you for providing Justicia for Migrant Workers with the opportunity to share our experiences relating to the detrimental impact that recruitment fees and other fees have had on the lived experiences of migrant workers. Justicia for Migrant Workers is an all-volunteer collective of students, community and labour organizers who work with migrant workers, particularly migrant workers employed under the auspices of the seasonal agricultural worker program and the temporary foreign worker program, particularly low-skilled.

While the committee has a mandate to examine the role of recruitment fees, we encourage you to also examine the broader implications that these employer-driven migration programs have had on the workers who participate in them.

I want to provide a few examples of what we've seen, what we've heard and what the workers want to relay to you.

Recruitment fees have negatively impacted the lives of migrant workers in Ontario. The following composite

represents the experiences of numerous temporary foreign workers employed under the low-skilled pilot project.

Saswati came to Canada to provide for her family. Her mother and father are both disabled. She is the only income earner. After hearing about potential opportunities that were available in Canada, she borrowed money from underground loan lenders. The Canadian recruiters' agent in Thailand had told her that she needed to pay \$10,000 plus 3% interest to find work in Canada. After putting a mortgage on her house and arriving here, Saswati's passport was taken by the recruiter. She was also denied wages that she was promised when she agreed to the contract back home. She also noticed that her work permit and her workplace did not match, and furthermore she was constantly being moved from workplace to workplace. One day while on the job, she received an injury at work. Her employer contacted the recruiter, who took her to the hospital. This recruiter charged her several hundred dollars for the visit.

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When Saswati's work permit neared completion, the recruiter offered to return her passport only after she paid him \$1,500 for a work permit extension. Nervous that she may break the law by not having proper documents, she willingly paid to continue to support her family, pay her debts and get her documentation back. Nearing the completion of the extension, Saswati yearned to be back home with family and friends. In conversations with these same friends, she knew she could legally be in Canada until the termination of her visa, and that she would need to return home for four months and could then legally return to Canada.

Anxious to return home and careful not to infringe Canadian laws, she returned home, and through the same recruiters who brought her to Canada, returned to work for a second time. Rather than the \$10,000 she previously paid, this time the recruiter charged her \$5,000 plus interest. Upon return, it became evident that work was not available. She received 15 or 20 hours one week and three to five hours the following week, clearly not enough to pay either her incurred debts or any other costs she paid to come to Canada.

Out of necessity, she accepted work at a neighbouring farm—while against the contract, she had no choice. Shortly afterward, immigration officials raided her workplace arresting Saswati and detained her. Despite the efforts of advocates and Saswati herself, who was willing to speak out against the injustices, officials refused to listen and Saswati was not released. Instead she was deported and barred from Canada.

Lara and her friends arrived in Canada with a false promise of permanent residency. Like the other workers who are employed at the food-packing factory, Lara, a teacher in her home country, cannot become a permanent resident, because the low-skill program does not permit these workers the right to permanent residency. Lara paid a minimum of \$5,000 to come to Canada, including her airfare. This, of course, is contrary to the temporary

foreign worker program, where the employer is supposed to pay these costs. The workers weighed the costs and benefits of speaking out: They could speak out against this injustice and face reprisals or remain silent and be assured of employment. These workers chose the latter. Lara signed a contract in her home country. Upon arrival in Canada, she signed another contract agreeing to different working conditions than she had agreed to earlier.

On top of the initial payment, workers at this one facility are also deducted about \$1 an hour per worker for housing, where the workers are crammed together in small rooms, and in some locations where the workers deem their accommodations potential fire hazards. Workers accept these conditions out of fear that if they move out of the recruiter's provided housing they would also lose their work contract.

While you may believe that the recruiter deals solely with financial transactions—payment for work in Canada—the workers want to relay that this in fact is not the case. Their recruiter plays a role in their place of employment, their work permit extension, their housing and in numerous other areas of their lives. The recruiter has told these same workers not to discuss human rights violations with any outside group, or to join any organization that may address these violations.

When a friend of Lara went to find another LMO for a workplace unrelated to where he was working, the worker was rebuked and threatened by the recruiter who, unknown to him, had relationships with multiple employers in his industry. Apparently, the employer at the second location phoned the recruiter about what this worker wanted to do.

While we encouraged many workers to document their experiences to us, the workers were fearful that speaking about their experiences in the open would lead to (1) their termination, (2) their repatriation and/or deportation and (3) denial by their recruiter to grant work permit extensions, which in many cases would cost an additional \$1,500.

Alberto, a farm worker under the temporary foreign worker program, was recently laid off due to the economic recession. His employer terminated dozens of workers across Ontario. While permanent residents and Canadians could receive employment insurance, welfare and other social entitlements, these workers could not because (1) they did not work enough hours and (2) migrant workers are excluded from benefits such as welfare. As Alberto and countless others of those terminated explained to us, they had debts and obligations to their families; they tried to get other LMOs, other jobs.

In recounting how they came to Canada, their employer had an in-house recruiter who coordinated with a local recruitment agency in their home country to find migrant workers. The recruiter interviewed and helped choose the workers who would eventually come to Canada. The workers paid an estimated \$1,000. However, the role of the recruiter did not end there. The in-house recruiter enforced the contract, was their landlord and oversaw the concerns of the migrant workers.

When it came to terminating these workers, not only did the recruiter oversee this; he was also responsible for evicting these workers and ensuring that many of these workers were deported or repatriated. Thus, the in-house recruiter exerted control over the lives of these workers through termination, eviction and repatriation.

All these workers want to send a message that they came here to provide for their families. Many are from impoverished communities, and the employment promised in Canada was necessary to alleviate economic insecurities they faced. However, they are angered that despite their willingness to work and contribute to society, they have been mistreated and abused as a result of legislative exclusions, discrimination and control by employers and recruiters who deny them rights accorded to other workers. The concerns raised by migrant workers are a result of the framework of the temporary foreign worker programs, and represent the structural flaws in their design.

While the committee has chosen to address the conditions of LCP workers, the government has failed in its responsibility to protect the rights of all temporary foreign workers who pay recruitment fees to work in this province. Abuses in the recruitment process are rife across all temporary foreign worker programs. To deny this fact is to perpetuate different labour standards for different categories of workers.

Furthermore, the absence of discussion regarding the numerous fees and deductions that participants in the seasonal agricultural worker program pay is equally appalling. Caribbean workers, for example, endure mandatory deductions of 25% of their salary, which is held until they return to their home country. Breaking the silence about working and living conditions of the SAWP must be a priority.

Manning, a migrant worker from the Caribbean, wants to know why his rights are being consistently denied by the governments of Ontario and Canada. He has seen numerous violations, but the workers do not have access to the necessary avenues to ensure their complaints are heard. Furthermore, through the process of repatriation, naming and disbarment from the seasonal agricultural worker program, workers are denied the right to exert their rights, and if they do, they'll be subject to deportation.

Bill 210 is an important first step, but amendments are needed:

- There must be an expanding of protection to include all temporary foreign workers.

- We must also implement legislation to prevent employers, recruiters and other third parties from confiscating identification from all temporary foreign workers.

- We must ensure that legislation is retroactive, to capture the expansion of the temporary foreign worker program, particularly the low-skill program.

- Joint and several liability, where the employer and the recruiter, and also contractors and subcontractors, are

jointly held responsible for any and all fees incurred by workers, whether in Canada or abroad.

- The bill should be expanded to encapsulate the strategies that third parties and employers may use to download costs on to workers.

- Steps should be undertaken to address the international scope of recruiters. Provincial efforts alone will not deter recruiters from deducting fees in the workers' home country.

- For participants in the seasonal agricultural worker program, the provincial government should eliminate the mandatory 25% deductions that are taken from workers' pay in Canada and returned when they return home.

- No loopholes: We need to cut sections that would allow exemptions through future regulations.

- There should be no repatriation or deportation for workers making a complaint under the Employment Standards Act or any new labour laws.

- We must update other provincial labour laws—workers' compensation, employment standards, human rights legislation—to ensure that migrant workers' rights are protected.

The Chair (Mr. Bas Balkissoon): Thank you very much. We have to move on to the next presenter.

Mr. Chris Ramsaroop: Thank you.

CAPULONG LAW OFFICE

The Chair (Mr. Bas Balkissoon): The next person is Maria Capulong, of Capulong Law Office. Please state your name for the record. You have 10 minutes, like everyone else.

Ms. Maria Capulong: Good afternoon. My name is Maria Capulong. I am a lawyer practising in the North York area.

First off, I want to thank you for allowing me the opportunity to share with you some of my observations regarding Bill 210. Before I get into my observations, allow me to provide you with the context in which I formed these observations.

You may be able to tell from my accent that I am a born-and-raised Torontonion. My parents were Filipino immigrants who came over as skilled workers, a different program than the one addressed by Bill 210.

You can imagine that when I hung out my shingle as a lawyer in North York, I was approached by an alarming number of migrant workers with legal issues. The majority of them were live-in caregivers. Although each of them had their own unique legal issue, there was one common thread, and that thread was exploitation. Each was suffering some type of exploitation as a result of gaping loopholes in the federal live-in caregiver program.

You can imagine my shock on encountering both men and women who had their passports confiscated, used as leverage or security for a "placement fee" at an exorbitant rate; and workers who regularly worked overtime without pay, were threatened constantly with deportation or were barred from seeing a doctor when they were ill because it wasn't their day off. You can understand my

shock because, as a Canadian citizen, the only standard I know is a Canadian standard for human rights.

1440

There are really three observations that I have and I would like to make to you for your consideration. The first is that of the extension of protection for all migrant workers. I don't think that it's an off assumption to say that we all agree that there is exploitation that is occurring. I think we all agree that something has to be done about that exploitation. That comes from all sides, whether you're left or right on the scale. The question is: How is that going to be addressed? Now, kudos to the government for standing up and attempting to address that through Bill 210. The same conditions which give rise to a viral breeding ground for exploitation for live-in caregivers are the same conditions for migrant workers. Extend the protection to them as well.

The second, and perhaps the most contentious—and I smile as I say this because I know section 7 will be something that all of you will perhaps dream about this evening because it's going to be raised again and again—is an absolute ban on placement fees. There is no doubt that people have raised \$5,000, \$6,000, \$7,000—I think there were amounts of \$10,000 that were being raised as amounts that were being charged for what we call “placement fees.” Now, where should that placement fee be placed? Is that placed on the employer, or should that rest on the migrant worker?

In my experience, caregivers make about \$12,000 net a year; that's with statutory withholdings and deductions for room and board—\$12,000 net a year. Now, I've never been that great at math, which has been a disappointment to my parents, but if I was to do the calculations of \$5,000 as a placement fee, that's in and around 41% or 42% of an individual's annual income through the live-in caregiver program. That seems exorbitant to me. That seems like exploitation to me.

Now, there's a question regarding, how far should this ban go? Should it go into professional development fees, such as resumé writing, interview skills training? From what I understand, the CIC funds several settlement programs which offer these services for free to individuals in Canada. I don't understand having to pay a recruitment agency for those same services.

Now, there's also a question regarding immigration services, and I will be honest and blunt with you: I have an issue regarding this. Professional guidance fees or immigration service fees in order to assist a caregiver or migrant worker with legal information or legal services—I don't understand why a recruitment agency should be able to charge those fees. Mr. Dhillon, if you were my lawyer, I don't understand why I would have to pay Mr. Delaney for your services. We would have a direct relationship.

As a member of the law society, my relationship, my duty, my obligation is to the client directly. If there is an involvement of a third party, that is considered a conflict of interest. The rules of professional conduct which lawyers and paralegals must abide by ban us from

sharing a referral fee with non-licensed individuals. So my question is: Is this a way to circumvent that existing rule? I'm not certain. Is it a way for an agency to trump up the amount that they're receiving? Perhaps; I'm not sure; I don't run an agency. All I know is that if I'm providing legal services to an individual, that money, if there is money that is being charged, should come directly to me. We are dealing directly with one another, with a client, not with a third party. That, then, blurs the lines of who is paying this bill and who then is going to be instructing the individual providing legal services?

Now, there's also talk of assisting employers with remittance for WSIB, CRA. Those, to me, sound like services being given to the employer. Again, I do not understand why a live-in caregiver, who makes \$12,000 net a year, would be responsible to pay for those services.

The third observation that I would like to make is that of the extension of time limitation periods and the amounts that an individual can collect. There is no doubt that because of the loopholes with respect to the federal live-in caregiver program—and I'm not going to shift blame here today—the conditions are very difficult for an individual to come forward and enforce their rights for fear of deportation, for fear of what have you. Extending that six-month limitation period to three and a half years is wonderful; I think that's a good recognition. But let's extend that a step further to employment standards, not just the placement fees that were wrongfully charged; how about the overtime that wasn't paid?

I understand the awkward position you are placed in, having to balance the rights of everybody and the responsibilities of everybody, and I understand the very common argument: “As a Canadian citizen and as a taxpayer...” That is a very a common argument. Well, I'm here to tell you today that as a Canadian citizen and as a taxpayer I recognize the rights of taxpaying non-Canadian citizens. I'm happy that Bill 210 reflects that, and I hope that you'll make the appropriate changes to ensure that live-in caregivers and migrant workers as a whole are no longer exploited.

I thank you, and I'd just like to point out that this is perhaps the first and only lawyer you will see who is not long-winded.

The Chair (Mr. Bas Balkissoon): Thank you very much. We've got about 30 seconds. The government side: Mr. Dhillon, do you have a question?

Mr. Vic Dhillon: Yes, Chair. Is there any risk that caregivers could not find necessary legal representation without recruiters' assistance?

Ms. Maria Capulong: I'm sorry?

Mr. Vic Dhillon: Is there a risk that exists for caregivers who could not find necessary legal representation without recruiters' assistance?

Ms. Maria Capulong: Are you asking if a caregiver could find legal assistance without the assistance of a recruitment agency?

Mr. Vic Dhillon: No. Is there a risk that, without the assistance, the caregiver could not find it?

Ms. Maria Capulong: I do not think so. I think that if—

The Chair (Mr. Bas Balkissoon): We'll have to move on to the PC side. Mr. Miller.

Mr. Norm Miller: Thank you for the opportunity. I think I get 30 seconds—

The Chair (Mr. Bas Balkissoon): Everybody gets 30 seconds.

Ms. Maria Capulong: My apologies. I was trying to leave.

Mr. Norm Miller: I was going to say that I think all the long-winded lawyers got jobs around here at Queen's Park.

You talked about passports being confiscated. Is that not against the law? Is there any law now that makes that illegal? I'd be shocked if it wasn't against the law, but I'm not a lawyer.

Ms. Maria Capulong: There are a couple of statutes that come to mind: the Criminal Code of Canada and the Immigration and Refugee Protection Act.

Mr. Norm Miller: So are the bad employers, the bad guys—

The Chair (Mr. Bas Balkissoon): Mr. Miller, I'm sorry. I'm going to have to move on to Ms. DiNovo: 30 seconds.

Ms. Cheri DiNovo: Thanks, Maria. Don't ever go into politics; you'll immediately become long-winded.

Thank you for this. We absolutely agree, and we're going to fight for the amendments, as I've said to the other deputants.

SAOWARAK BUNPITAK

The Chair (Mr. Bas Balkissoon): We'll move to the next deputant, Saowarak Bunpitak.

Before you get started, I just want to let the person who was scheduled for 2:40 know that the committee has to recess at 3, so I hope you can stay until 4 o'clock and we'll have you as the first deputant. Unfortunately, that's the only time I have.

Ms. Deryn Nicole Rizzi: I work nights, so there's no possibility that I can stay.

The Chair (Mr. Bas Balkissoon): You have a written submission?

Ms. Deryn Nicole Rizzi: I have.

The Chair (Mr. Bas Balkissoon): I apologize; we got started a little late. I'm on a very tight schedule.

Ms. Deryn Nicole Rizzi: I do realize that, but I did request on two occasions to have the earliest possible time available.

The Chair (Mr. Bas Balkissoon): My apologies.

Mr. Vic Dhillon: Maybe this group can wait until 4?

The Chair (Mr. Bas Balkissoon): I'm open. Would you be able to stand down your presentation and come back at 4, if it's not too much—are you willing to?

Interjection.

The Chair (Mr. Bas Balkissoon): I need a quick decision, because I don't have much time.

Mr. Vic Dhillon: If the presenter is available to stay, would that be okay with you?

Interjection.

Mr. Vic Dhillon: I don't think they—

The Chair (Mr. Bas Balkissoon): You cannot stay until 4? Okay, we'll move on with the deputant.

You have 10 minutes. If there's any time left, we'll allow questions. Please state your name for the record.

1450

Ms. Saowarak Bunpitak: Good afternoon. Thank you for inviting us to speak with you today. My name is Saowarak Bunpitak. You can call me Poon. I was a registered nurse in Thailand, recruited to work under the federal live-in caregiver program. Before I left Thailand, my recruiter asked me to pay \$2,450, the full recruitment fee. I was also made to sign two contracts that were long and very hard to understand. I now understand that these contracts were only good for my recruiter and employers' interests. I felt like a slave tied to my recruiter and my employer.

The first contract tied me to the recruiter and the employer. I asked my recruiter to give me another employer because my employer owes me two months salary and unpaid overtime hours, amounting to \$5,728.87. My employer also didn't provide me with adequate food. I sometimes shared the daycare food with the child that I was taking care of during the play dates. My employers were demanding, angry and stressed out because they lost their business. When they left for abroad in September for two months, they just left me \$30 for food with two dogs that I had to take care of.

I informed my recruiters several times about my situation, but they told me just to stay there. When I told them I couldn't stay because of the working conditions, they provided me with an alternative employer, but the job would not start until April 2010 when my work permit would have already expired. I told them this wouldn't work for me. I had to start looking for another employer on my own. The recruiter told me that if I broke my contract with them, or if I got a job that I found by myself, I would have to pay them for the penalty amounting to \$3,850 plus \$750 for the administration cost.

I feel that the recruiter didn't care about me or the violations I experienced with my employer. They just wanted me to stay with them so they could sell me to another employer. Recruiters should not be allowed to charge recruitment fees to caregivers, and I am glad to see the government introducing Bill 210 that would make these fees illegal. This is an important first step in giving caregivers more protection.

The second contract that I signed with my recruiter was a requirement that I pay my recruiter's counsel \$84 monthly to pay for a work visa and for immigration services that I might need.

For nine months, I paid the recruiter for the counsel service, a total amount of \$766. I now understand that the agency doesn't own my work permit. I got the work permit on my own. I got it from my employer. If the

counsel wants to ask or wants money from the service, they should ask for it from the employer or the agency, not from us or from the caregiver. I now know that I don't need to maintain and pay the counsel because my work permit is valid to stay and work in Canada. Recruiters should not be allowed to charge caregivers for these kinds of services; it is very unnecessary. Caregivers only pay because they do not know their rights and they are afraid of what will happen if they don't pay.

Despite the financial threat from my recruiter that I may risk being charged for breaking my contract with them, I decided to find another employer on my own, as the situation with my employers was getting extremely difficult for me to bear. I left my employer on November 28, and, in February 2010, I will be working for a new family.

I could take this action because I know my rights, but many people are afraid to speak out. Some caregivers may have been placed with a good employer and they don't want to complain about the recruitment agency. But for many of us, when the recruiter placed us with a bad employer, we see where their interests are when they don't help us to get out of a bad situation.

I've met other workers from Thailand who came to work in Ontario as temporary foreign workers doing agricultural work. Many of them paid much more than me to recruiters back in Thailand; some of them paid \$10,000 to come to work as temporary foreign workers. They told me that the agency in Thailand told them that they have to pay a lot of money because they would send the money back to Canada. This is a huge amount of money. The workers come from poor families with very little income. They have to borrow some money from moneylenders to pay this recruitment fee, and the moneylenders charge them huge interest rates each month. They told me that they must work for two years in Ontario just to pay back the money that they borrowed. I felt really angry when I heard about this story, and I feel sorry that they are facing this situation.

I would like to tell the government to not only look at me but also please look at the situation of these temporary foreign workers. These workers shared their stories with us so that we can share them with you.

On behalf of these workers, I'd like to ask the standing committee to amend Bill 210 so that it provides protection to these women and to all temporary workers. I hope the standing committee will support this bill but make the very important changes that are needed so that our temporary foreign workers are included and that the recruiters can't find any way to get around the new protections. Thank you very much. Thank you for this opportunity to share my experience with you.

The Chair (Mr. Bas Balkissoon): We have 30 seconds each. Mr. Miller?

Mr. Norm Miller: I'd just like to thank you for taking the time to come in and helping to educate me on your personal experience.

Ms. Saowarak Bunpitak: It was my pleasure.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Thank you particularly for bringing in the contracts. Some of these conditions are absolutely indentured servitude. They're astounding, so thanks for giving them to us. It's the first I've seen of them.

Ms. Saowarak Bunpitak: It was my pleasure.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much for your presentation. What do you think the government should do in terms of informing caregivers of their rights, in your opinion?

Ms. Saowarak Bunpitak: I think the government should take care of or keep an eye on the agencies because right now we have problems. I think many workers or caregivers pay a lot of money just to work as a caregiver, just to get very little income, but they have to pay a lot of money—

Mr. Vic Dhillon: For the future, how can we inform caregivers of their rights so it doesn't happen, so they can take corrective action before they get into a bad position?

Ms. Saowarak Bunpitak: Before I came here, I did know about my rights. The government, before caregivers can—

Mr. Vic Dhillon: What can we do to tell you about your rights?

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to recess the meeting. Members, we'll be back at 4 o'clock, and we're in room 151, on the lower floor.

Ms. Mary Gellatly: Can I just clarify that this is all one recruiter, but three contracts from one recruiter under different names.

The committee recessed from 1457 to 1600 and resumed in room 151.

CAREGIVERS' RIGHTS AND EDUCATION

The Chair (Mr. Bas Balkissoon): We'll convene the meeting and move to the 4 p.m. deputation, Caregivers' Rights and Education, Nancy Abbey. Please state your name for the record. You have 10 minutes. If you leave any time after your presentation, we'll allow questions from all parties.

Ms. Nancy Abbey: Good afternoon. I want to thank the committee for the opportunity to be here today. Before I start my remarks—

The Chair (Mr. Bas Balkissoon): Can you please state your name for the record?

Ms. Nancy Abbey: Yes, my name is Nancy Abbey.

Before I start my remarks, I'd like to comment on two things: first off, this committee reviewing such important legislation with only 24 hours' notice on the public website.

The second one is the fact that we know of a number of caregivers who requested to appear before this committee and were denied that opportunity. These were caregivers who had a very positive story to tell about their experience with the foreign live-in caregiver program and have gone on to become very successful.

I'm here on behalf of CARE, a coalition of caregiver recruitment agencies and associations united by the need to protect caregivers' rights and education. Joining me is Evangeline Ancheta, a licensed immigration consultant with the Canadian Society of Immigration Consultants.

CARE strongly supports the intent of Bill 210 and agrees that there is a need for this important legislation. We want to work with the Ontario government to ensure that Bill 210 achieves the intended results: employment protection for foreign nationals.

We're concerned with the provisions of section 7, which prohibit recruiters from charging the foreign national a fee for any good, service or benefit provided to the foreign national. Whereas we believe that this should be the case for recruitment fees, a blanket ban on charging for any services has significant and unintended negative consequences.

Our suggested amendments are based on the best of current legislation that already exists in British Columbia, Alberta and Manitoba to protect caregivers and the families they serve. Our suggested amendments will strengthen the province's ability to keep the recruitment industry accountable.

The majority of foreign nationals seeking employment under the foreign live-in caregiver program do not have sufficient professional skills that an Ontario employer would expect from a caregiver. Caregiver recruitment agencies based in Ontario offer a valuable service by providing training programs to foreign caregiver candidates, to learn the skills needed to immigrate to Canada to pursue a better life under the foreign live-in caregiver program.

Professional development programs, offered on a voluntary basis, teach caregivers critical skills, like how to write a resumé and conduct a professional interview; first aid and CPR training—all life skills that are transferable beyond their 24-month work permit requirements.

Bill 210 would ban foreign nationals from paying for these professional development programs, thus denying them the ability to improve their skills and to compete more effectively in the job market.

Bill 210 would also ban recruiters from charging foreign caregivers for immigration consulting services from a licensed immigration consultant. These are services that are crucial to the foreign caregiver so that they avoid making mistakes that could negatively impact their application for permanent residence in Canada.

Immigration services include the proper preparation of a work permit application; representation before the visa officer, addressing concerns raised; application for permanent residence; and extensions or changes to a work permit. There are many cases in which foreign caregivers have been encouraged to misrepresent their marital status in order to be processed faster. After working 24 months in Canada, they are advised that since they misrepresented their status in their original application for a work permit, they are not permitted to ever bring their family to Canada.

By banning all fees to foreign caregivers, the entire financial cost now shifts to the employer. This will be of particular concern to families that desperately need live-in caregivers when they work shift work: people like pilots, flight attendants, doctors, nurses. They live outside a metropolitan area or where other traditional caregiver services don't exist, like daycare centres.

We estimate that without amendments, the cost will be over \$6,000 for an Ontario family to sponsor a foreign live-in caregiver, a cost that will be prohibitive to many, if not most, Ontario families, with no assurances that a foreign live-in caregiver will stay with that family to fulfill the 24-month obligation.

I ask you, would you be prepared to pay \$6,000 for a foreign live-in caregiver, knowing this person may not stay with you for two years, or two days, and even if they do, after two years you may have to again pay \$6,000 to hire another foreign live-in caregiver? This caregiver option becomes one only available to the wealthy and, even then, the financial risk may be too great.

Bill 210, if passed without amendments, will reduce the demand for foreign caregivers.

Bill 210, if passed without amendments, will reduce the demand for caregiver agency services and cause reputable agencies that want to offer high-quality, well-trained, well-documented candidates to potential employers to close their business.

Bill 210, if passed without amendments, will have an impact on both the quality and quantity of caregivers available in Ontario.

Bill 210 will result in less reputable agencies continuing to operate and representing less qualified candidates to care for the most vulnerable, the young and the old in this province.

So what amendments are needed to protect foreign caregivers and for this legislation to achieve the intended results?

First off, section 7, "Protective Measures": You need to delay section 7 coming into force until the regulations for prescribed exemptions have been written.

You need the regulations to exempt fees for professional development and immigration services, as is the case in BC and Alberta.

You need to engage stakeholders in regular discussions to update the list of exempt services and define the supporting documentation to validate proof of fees paid, proof that services were delivered and mechanisms available to monitor and implement the regulations.

We have provided the committee members with a list of recruiter services that we suggest should be paid for by the employer, and optional services that should be made available to and paid for by the caregiver.

An important section missing from the bill relates to the licensing of agencies. Ironically Bill 160, a previous Liberal bill introduced this year to protect caregivers, included provisions that would regulate and license caregiver recruitment agencies. Bill 210 does not, and we believe it should.

Ontario should make it a requirement to have a licence to operate a caregiver recruitment agency, as in Alberta and British Columbia.

Ontario should require a caregiver recruitment agency to post a bond in an amount significant enough to ensure that only genuine and legitimate recruiters will apply for and obtain a licence, as in Manitoba.

Ontario should have a government website, as is the case in BC and Manitoba, that posts a list of valid licence holders' names.

Bill 210 has moved through the legislative process with lightning speed. There would be a number of unintended consequences should the bill be passed without amendments. You need the time to make this legislation right for Ontario.

Please consider the information I have provided you with today when you conduct your clause-by-clause review on Monday. Thank you.

The Chair (Mr. Bas Balkissoon): Thirty seconds on each side. Ms. DiNovo.

Ms. Cheri DiNovo: Yes, very quickly. I've already stated that I used to own an agency. We never charged fees to applicants. Six thousand would have been a low fee for us to charge an employer. I don't—

Ms. Nancy Abbey: I'd be curious to know how long those people stay with you for employment.

Ms. Cheri DiNovo: Excuse me. I don't think that the lack of child care in this province should be borne on the backs of migrant workers. I think child care is a separate issue. It needs to be in place, and I think somebody who hires a worker needs to be able to pay for that worker—

Ms. Nancy Abbey: And we're suggesting they do. We're suggesting they pay for the recruitment fees.

Ms. Cheri DiNovo: They have to stay for 24 months, otherwise they lose their immigration status.

Ms. Nancy Abbey: Correct.

The Chair (Mr. Bas Balkissoon): Excuse me. I have to move on to the government side. Mr. Dhillon.

Mr. Vic Dhillon: How much do you charge a caregiver to refer him or her to an immigration consultant?

Ms. Nancy Abbey: There's no charge to refer.

Mr. Vic Dhillon: If you don't receive a direct fee, do you receive any monies from the immigration consultant for the referral?

Ms. Nancy Abbey: You'll have to ask that of one of the recruitment agencies. I don't work for a recruitment agency.

The Chair (Mr. Bas Balkissoon): We'll move to the PCs. Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. I've noted that the amendments you're looking for are licensing of agencies, requiring bonds and requiring a government website. I did bring up at the start of the hearings today that I thought there's not really a valid reason for why the government's trying to move this through so quickly. I've certainly received—

Ms. Nancy Abbey: I agree.

1610

Mr. Norm Miller:—a lot of e-mails from people who are concerned about that and making mistakes. In its present form, is it going to deal with the bad apples out there that are abusing or taking advantage of vulnerable people—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on.

Mr. Norm Miller: We don't get much time for questions.

The Chair (Mr. Bas Balkissoon): Caregiver Resource Centre—you'll have to make the questions short if you want me to allow them.

Mr. Norm Miller: They are short.

CAREGIVER RESOURCE CENTRE

The Chair (Mr. Bas Balkissoon): You have 10 minutes. State your name for the record, and if you leave time at the end of your presentation, we'll move to questions.

Ms. Terry Olayta: Thank you. Good afternoon, everyone. My name is Terry Olayta from the Caregiver Resource Centre. I had difficulty hearing our first speaker earlier, so I'll try to speak louder.

The Caregiver Resource Centre is an organization—

The Chair (Mr. Bas Balkissoon): Excuse me. Just sit normal. The mike will pick you up. You don't have to speak right into it.

Ms. Terry Olayta: Sorry. The Caregiver Resource Centre is an organization founded, organized and operated by members and participants of the then Canada foreign domestic movement, now the live-in caregiver program of the Canadian immigration and citizenship ministry. This organized community of caregivers is registered under the name Cross-Cultural Community Centre, located in Scarborough, Ontario, serving the community of caregivers in Toronto and across the GTA.

Operation is fully through volunteerism, as founders, officers and members are fully employed with their respective employment. All officers and members have gone through the life of working as caregivers, embroiled with rules and regulations imposed by both the federal and the provincial government, thereby leaving the caregivers open to abuse and exploitation by the employers, the recruiters and their parties. The community of caregivers believes in democratic participation, where workers are encouraged to participate in the dialogue to improve the welfare of the highly marginalized group of workers within the temporary work permit holders.

We believe in the value of our contribution in building a First World country, Canada, and so we believe that our participation should be recognized and be given the fair value—and have our voices heard for our very own experiences and experiences of our fellow caregivers. Our families and friends have been documented for many decades, painting all types of exploitation, abuses and neglect.

Bill 210 should be studied further and should include the most important element to make it realistically

effective on its implementation. Without proper regulation to follow through on the intention of this bill, it won't mean anything for those who deserve and are qualified to come and work in a place away from our birth nation.

It will again become another monumental history for the Minister of Labour, Peter Fonseca, after announcing the nanny hotline, 1-866-372-3247—when, during his caregivers' community meeting in the office of MPP Kathleen Wynne there was the alleged report by the two live-in caregivers that they had been abused, neglected and exploited by the elected official MP Ruby Dhalla and her family.

Minister of Labour Peter Fonseca still owes the community of caregivers his findings and actions taken in regard to the alleged violation reported in his very presence while promoting the nanny hotline. Minister of Labour MPP Peter Fonseca, we applaud the idea of punishing the violators, but we have to be very specific and clear in how we go about this bill to truly engage, in a credible way, in protecting the most vulnerable: the caregivers, the foreign domestic workers.

I don't know how many more minutes I have. I really want to be very clear in what I really want to say.

The Chair (Mr. Bas Balkissoon): About six minutes.

Ms. Terry Olayta: So, the migrant workers' bill, a political feint? That's a question. The much-ballyhooed, made-in-Ontario legislative fix to protect foreign workers may well only be a political feint to deflect criticisms of provincial insensitivity to foreign workers' concerns.

Ontario Labour Minister Fonseca had initially balked at passing legislation to regulate agencies recruiting foreign workers, but relented only after MPP Michael Colle had proposed a private member's bill for the purpose and when the public outcry over workers' abuses had snowballed to a degree that ignoring it would result in great political peril for the McGuinty government.

If the discussion paper prepared by the Ontario labour ministry, which is being used in its current public consultations, is an indication of things to come, there seems to be nothing much to hope for in the proposed legislation on the part of foreign workers. Notably, the paper limits itself to the issues of prohibiting placement fee collection and licensing of recruiters, even asking if these reforms, deemed by most as already given, should be the subject of regulation in the first place.

The federal government had clearly signalled that it favours the banning of placement fee collection from foreign workers, and the registration of employers and recruitment agencies. The labour standards legislation of the western provinces specifically provides for these regulations. Even the Canadian Society of Immigration Consultants, whose members clearly have a stake in the compensation of services for its members, sees the fee prohibition and registration as core proposals to reform the system.

Needless to say, the absence of regulation over the recruitment industry in the province for so long and the consequent lack of accountability had caused unscrupulous

placement agencies to amass tax-free millions on the backs of foreign workers seeking a better life in Canada. It also gave rise to bogus employers, eager to dip their hands in the booty of life savings of these foreign workers, or to abuse and exploit the migrants, knowing that there are no mechanisms or effective systems in place in the province to assist or protect them.

As noted before, as Ontario mulls its proposed legislation, the shifting of gears could be heard above the din of public outcry over the reported widespread abuses committed against caregivers and temporary workers. Ersatz workers' advocacy groups, composed mostly of recruiters, have begun to crop up, hogging government consulting meetings and presenting their own submissions, ostensibly to protect the workers, but in reality just their own selfish interests. Flushed with filthy lucre, these have been noted recently to conduct expensive public relations campaigns, including rewarding themselves with seals of approval and glowing testimonials from nebulous public interest groups. Our provincial officials should see through these posturings and beyond the political war chests that these vested interests could provide.

Ontario is expected to receive the bulk of the targeted almost 400,000 temporary workers in the coming year. Therefore, it should not bend to pressure from vested interests, but should be taking the high road to come out with labour legislation that is simply moral and right.

I support, and I'm submitting also, CMI Pushes for Licensed Recruiters and Employer Accountability.

I just want to also mention the chronic labour issues of the live-in caregiver participants, which are:

- unpaid long hours of work, overtime and flexibilities;
- shared nannies;
- temporary layoffs;
- uncollected wages and the limitation of the nanny hotline;
- services rendered away from Canada and the break-away vacation culture of the employers, where they carry their workers with them;
- vacation pay;
- illness at work;
- injuries at the work site;
- unreported wages, cash wages;
- the release-on-arrival factor, where the worker has no access to resources to fight for their rights because they are deported immediately;
- ghost employers that pay so much for the agencies;
- employers' neglect on the remittance of tax deducted;
- withdrawal or denial of records of employment;
- T4s;
- death of an employer or a permanent change of work location. Those are contributing factors in the non-completion of the 24-month requirement.

The Chair (Mr. Bas Balkissoon): Thirty seconds for each side. Mr. Dhillon.

Mr. Vic Dhillon: Thank you very much for your presentation. I really appreciate it.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: Thirty seconds isn't much time to ask a question. You said right at the very beginning, in your migrant workers part, that you think this may be just a political feint to deflect criticisms. Can you expand on that?

Ms. Terry Olayta: Yes, considering the fact that we had experienced this with the nanny hotline—because I am a frequent caller with the nanny hotline, and it's very limited.

When you file for bankruptcy, your records will be there for 10 years or more than 10 years. You're lucky if that will be off your record. And when you owe something—

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move to Ms. DiNovo.

Ms. Cheri DiNovo: I couldn't agree more. Whatever happened to the Ruby Dhalla case? We're still waiting for Peter Fonseca to investigate that.

Very quickly, just to respond, they have a 24-month guarantee because, otherwise, nannies' immigration status is problematic if they leave within 24 months. So that's more of a guarantee than we ever had.

The Chair (Mr. Bas Balkissoon): Thank you very much.

We'll move to the next deputant. The next person is Basiliza Remorque. I hope I got it right. My apologies if I didn't. Is the 4:20 deputant here? Okay, we'll move to the next one.

1620

DIAMOND PERSONNEL INC.

The Chair (Mr. Bas Balkissoon): Diamond Personnel Inc.: Susan Zwaal.

Please state your name for the record. You have 10 minutes.

Ms. Susan Zwaal: Susan Zwaal.

Dear committee members, I'm here today on behalf of Audrey Guth, the founder and director of Diamond Personnel. I'm Susan Zwaal, VP of global recruitment for the Diamond group of companies. I am also the employer of a live-in caregiver.

Diamond Personnel is a leader in the caregiver placement industry. Established in 1988, our head office is in Toronto. We are a licensed recruiter of temporary foreign workers in Manitoba, Alberta and British Columbia. We are one of only two Canadian firms approved to operate a licensed caregiver employment agency in Hong Kong.

For 22 years we've been protecting caregivers' rights through an ethical and professional business practice. We have placed over 3,000 live-in caregivers over the past 10 years with Ontario families, and with unprecedented success. We've maintained our leadership position in the industry because of our integrity-based business practices.

Unfortunately, many recruitment agencies have not operated ethical practices. Bill 210 has an incredible opportunity to clean up our industry, with minor amendments to this bill.

Who are our clients? The families just like yours that need quality care for their children and their parents. These families live in rural communities; they live in large cities. They are doctors, flight attendants, teachers, shift workers, police officers and people who travel extensively for work. They all have a common need for quality care for their families at an affordable rate. Our employers pay our agency recruitment fees to source, screen and match them with the most qualified caregivers.

Our caregivers are our clients too. Our caregivers need and want an opportunity to learn the skills necessary to be a successful immigrant in Canada. Diamond has created a professional development program called Job Skills Advantage that provides caregivers with the job-seeking skills, child development skills, comprehensive knowledge of Ontario labour laws, image consulting, interview preparation, employment standards briefing, and first aid and CPR training.

We wouldn't represent candidates without a valid driver's licence to clients who require a driver's licence. Why would we represent caregivers without proper training and skill? All skills that we train are transferable to future job opportunities here in Canada. We prepare our caregivers to be successful immigrants.

Diamond caregivers have a professional consultant available to them for the 24 months of employment to mediate, solve problems and to support and encourage, as and when it is required. Our licensed immigration consultants provide our caregivers with the support necessary to obtain a work permit and permanent resident status in Canada for themselves and their families. Our caregivers want this service.

What is our formula for success? (1) Education and professional development; and (2) immigration consultation, and support to that. We've proven during 22 years that education and training yield successful placements and successful permanent residents.

Bill 210 would deny caregivers the right to these services, as Bill 210 bans recruiters from charging live-in caregivers, directly or indirectly, a fee for any service provided to a foreign national. Bill 210 would ban the caregivers from being able to pay Diamond Personnel for these professional development programs and immigration services. We believe that it is the right of our caregivers to take professional development courses to secure the skills they need to be successful in Canada.

Bill 210 as it's written will shift to the future employer the cost of all professional development and immigration services provided to the caregiver. The affordable care option that so many Ontario families rely on will now become a luxury. This will be a luxury that only the wealthy can afford.

If we want to improve our skills for a job opportunity ourselves, there would be no question that we, individ-

ually, would incur those costs at our own expense. If we chose to hire a licensed immigration consultant to prepare applications for us, there would be no question: We would be deciding to do so at our own expense.

British Columbia and Alberta make provisions for caregivers to pay for professional development and immigration services. Ontario should do the same. Ontario should prescribe exemptions for professional development and immigration services within the regulations for Bill 210. Section 7 should be delayed from coming into force until the regulations for prescribed exemptions have been written. Stakeholders should be a part of the process to ensure that the regulations achieve the intended results.

Ontario should also require a licence to operate a caregiver recruitment agency, as in Alberta and British Columbia. The caregiver recruitment agency should be required to post bond to ensure that only licensed agencies are permitted to operate as recruiters. A government website should post the names of valid licence holders, as in the cases in British Columbia and Manitoba. This, in itself, would clean up the rogue, basement operators and allow ethical agencies to continue to deliver the same services that both our employers and our caregivers demand.

If allowed to pass as written, this bill would seriously impact the quality and quantity of caregivers entering Canada under the live-in caregiver program. Caregivers will not be able to distinguish between rogue agencies charging underground fees and those operating value-based, integrity-built businesses.

Caregivers will not be able to pay for the professional development services that make them highly qualified. They will not be able to pay us for immigration services. Rogue agencies will fester in the absence of ethical firms like the ones that do stand before you and have spoken today. Rest uneasy: This industry will continue underground on a cash basis, and it will proliferate.

If allowed to pass as written, Bill 210 will force Diamond Personnel to close our offices in Hong Kong. We will no longer travel every eight weeks to Hong Kong, as we have done over the past 13 years. We will no longer provide the education and support our caregivers have grown to need, value and want.

The only impact Bill 210 will have if passed without amendments is to eliminate ethical, legitimate operators like us who care about protecting—and I say “protecting”—the caregivers’ rights. Thank you.

The Chair (Mr. Bas Balkissoon): One minute each. Mr. Miller.

Mr. Norm Miller: You say that you’ve had 3,000 caregivers placed.

Ms. Susan Zwaal: Yes.

Mr. Norm Miller: And you’ve got lots of positive experience. Do you have any testimonials from these people who have—

Ms. Susan Zwaal: Yes, we do. I have them, and I could submit them.

Mr. Norm Miller: And in terms of the recruitment fees, what would be the recruitment fee for one of these individuals?

Ms. Susan Zwaal: I’m speaking on behalf of Audrey Guth today—because this involves immigration as well, so our licensed immigration consultant is here with me and she will speak to those fees and the breakdown. Evangeline?

The Chair (Mr. Bas Balkissoon): Please state your name.

Ms. Evangeline Ancheta: I’m Evangeline Ancheta. I’m a licensed immigrant consultant. I’m employed by Diamond Personnel to act as their immigration consultant. So I assist the foreign workers, the live-in caregivers in the application process from the time they apply for a work permit overseas, from the time they land as a worker at Pearson airport, from the time they renew their work permits, if necessary, from the time they apply for open work permits and permanent residence—

The Chair (Mr. Bas Balkissoon): Thank you very much. We have to move to the next person. Ms. DiNovo.

Ms. Cheri DiNovo: Yes. With all due respect, the list of services that you provide that you charge the applicant for, the caregiver, are all services that are provided either by government agencies, legal aid societies or the other caregiver associations that don’t charge at all.

Interjections.

Ms. Cheri DiNovo: Excuse me. No one disputes the right of your existence to do business. What we’re disputing is the right to charge exorbitant fees to caregivers. That’s what we’re disputing here. Again, I haven’t heard any justification—I certainly haven’t seen any deputants who are caregivers who support you. So I would have suggested—

Interruption.

1630

The Chair (Mr. Bas Balkissoon): Excuse me. I’ll empty the room if we can’t have order.

Ms. Cheri DiNovo: That’s it. Thank you, Mr. Chair.

The Chair (Mr. Bas Balkissoon): Thank you. Government side?

Mr. Vic Dhillon: Thank you, Chair. What professional development programs do you supply?

Ms. Susan Zwaal: We have an extensive professional development program which provides image consulting—

Mr. Vic Dhillon: How much do you charge for each? Say, image consulting: What would that entail?

Ms. Susan Zwaal: We were talking a breakdown of the fees earlier. Evangeline, would you like to speak to the breakdown?

Mr. Vic Dhillon: Yes, but that doesn’t—I don’t think that’s the immigration aspect of it, but from the caregiver. I mean, why would someone need the immigration consulting, for example?

Ms. Susan Zwaal: It’s \$550 for what is called the Job Skills Advantage, which is a program that we deliver.

Mr. Vic Dhillon: Do you have any other examples?

Ms. Susan Zwaal: I do, and we can submit that as well.

The Chair (Mr. Bas Balkissoon): Thank you very much.

FILIPINO-CANADIAN COMMUNITY HOUSE

The Chair (Mr. Bas Balkissoon): The next deputant is the Filipino-Canadian Community House: Merfa Yap-Bataclan and Marivic Prelas Rivera.

Please state your name for the record. You have 10 minutes. If you could leave time at the end, we will allow questions.

Ms. Merfa Yap-Bataclan: Hi. I'm Merfa Yap-Bataclan from the Filipino-Canadian Community House, a network partner of the Caregiver Resource Centre of Ms. Terry Olayta. May I address my submission to the members of this standing committee on the proposed Bill 210, the Employment Protection for Foreign Nationals Act, 2009.

I'd like to thank you for allowing me to speak at almost closing time. After all the submissions earlier, I can only appeal to the honourable labour minister, Peter Fonseca—

The Chair (Mr. Bas Balkissoon): Just hold on one second. Rather than you carry on and we break up your deputation, I will recess the committee right now so that they can attend the vote, and when we come back, I'll allow you to start all over again.

Ms. Merfa Yap-Bataclan: Thank you so much.

Interjection: It's a quorum call.

The Chair (Mr. Bas Balkissoon): Quorum call? We still have to—

Interjection: It's present now.

The Chair (Mr. Bas Balkissoon): It's present now? Okay.

Sorry. You can start all over; I'll start the clock again.

Ms. Merfa Yap-Bataclan: I can only appeal to the honourable labour minister, Peter Fonseca, and to you, distinguished members of the standing committee. It is my hope and prayer that before this Bill 210 is enacted into law, you please ensure that the following points are taken into consideration and additional provisions incorporated into this bill in response to the many abuses, maltreatments and scams of both the con recruiters and the abusive or sadistic employers. To wit:

(1) Ensure that there is a provision that allows the Ministry of Labour to monitor, investigate and reprimand or penalize the recruiters, whether licensed or unlicensed, when reported to have contravened the law. The reality is that at the initial phase of recruitment, clandestine agreements are made between the recruiter and the foreign worker that a certain amount is charged by the recruiter, with consent that the foreign worker will not in any way divulge this payment to the Canadian federal or provincial governments. This practice must be stopped by this bill.

(2) Ensure a provision that would block the unregulated modus operandi of these con recruiters at the initial phase of the transaction, in the recruitment process.

(3) Provisions should ensure that all steps and procedures in the recruitment process do not give a chance for recruiters to engage in any under-the-table deals with the employer or the foreign employee.

(4) At the processing and hiring phase, provisions should include protective measures that register employers and enumerate their duties, responsibilities and liabilities before they are duly recognized as eligible employers with government approval to hire a foreign worker.

(5) Provide also that the duties and responsibilities of the directors and officers implementing the Employment Standards Act and the bill, when enacted into law, should add powers and authority to investigate reports and complaints of foreign caregivers and justly act upon them within a prescribed period of time. For me, justice delayed is justice denied. The Ministry of Labour should directly hear and decide on these cases, since most likely the foreign caregiver cannot afford to hire a lawyer and file a court case.

(6) Provisions also should be added to respond to abuses happening during the time of service. Documentation or formatted recording of work hours and overtime should be enforced. This important document may be used as evidence against employer abuse. A number of reasonable working hours should be indicated also by the Ministry of Labour so that the 24-month live-in requirements under the federal live-in caregiver program are converted into reasonable working hours, allowing them to have completed the requirements for them to apply for permanent resident landing status.

(7) By virtue of the provision of this Bill 210, all live-in caregivers—not only a few, as cared for by other recruitment agencies—should be made aware and be informed of the laws affecting their employment and also clarified regarding their roles, responsibilities, rights and privileges. It should be the duty of the implementers of these laws to provide an information package to both the employer and the foreign employee.

I have more to propose, but I have limited time. In closing, I wish to attach in my submission articles published in Atin Ito. This is a newspaper in Toronto serving the Filipino community and this was also referred to by Ms. Terry Olayta. May I request that these be read into the record for purposes of reference.

It is my hope and prayer that you as members of Parliament be the statesmen that you are and not be viewed as just those whack-a-mole guys at Queen's Park. Do your job well, and God bless you. Thank you for your time and attention.

The Chair (Mr. Bas Balkissoon): Thank you. We have a minute each. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Merfa, very much for this, and thank you for your bravery and courage in coming forward.

You heard deputed by some of the recruitment agencies and immigration consultants that you and others like you represent a very small portion of abused, mistreated live-in caregivers, particularly from the Philip-

pires, and that the vast majority of live-in caregivers serviced by them really don't have any issues. Is that the case?

Ms. Merfa Yap-Bataclan: I don't think this is the case, because I believe that there are many unreported cases of abuse. I have here Ms. Anne Nacorda; she's a former live-in caregiver. Maybe we can have time for her, just to listen for two minutes or a minute about what she experienced as an abused—she's just one of the many we cannot service because we're just but a few non-profit organizations.

The Chair (Mr. Bas Balkissoon): Sorry, I have to move to the next question. To the government side. Mr. Dhillon.

Mr. Vic Dhillon: Does your organization provide new foreign live-in caregivers with information on employment standards? And if yes, what type of information is provided?

Ms. Merfa Yap-Bataclan: We are a new organization when it comes to advocacy. We have been directly helping caregivers, but not on the education and the information part. We were able to conduct an information seminar on this only this year, and it's not enough. We want to reach out to more, but we have limited funds. We know we have to reach out to more because we are getting so many caregivers—hundreds and hundreds—who we cannot service because we don't have enough people and we don't have enough funds to help them in their problems with their employers.

1640

The Chair (Mr. Bas Balkissoon): Thank you very much. We'll move on to Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. Anne can use my time to talk if she'd like.

Ms. Anne Nacorda: Good afternoon, everybody. My name is Anne Nacorda. I'm a widow and a mother of four. I came to Canada in 2003 as a caregiver.

I have worked with three employers within my 24 months in the program. In the span of three years, I wasted 11 months just waiting for a work permit. My third employer was from an agency that charged me \$50 for enrolment and one month of my first paycheck.

As a caregiver, I spent more than a year with them and took care of a premature newborn until he was more than a year old, when I finally finished my LCP. During my stay with them, I spent 24 hours with the baby, not seeing the shadow of the mother. This was the case from day one up to the time I left. I was paid with a flat rate of \$500 every two weeks and, in the succeeding year, \$600 every two weeks.

The Chair (Mr. Bas Balkissoon): Thank you very much. I now have to move to the next deputant. I'm really sorry.

Ms. Anne Nacorda: Okay.

FAMILY MATTERS CAREGIVERS INC.

The Chair (Mr. Bas Balkissoon): The next deputant is Family Matters Caregivers Inc., Tova Rich. You have

10 minutes, like everybody else. If you leave time at the end, we'll allow some questions.

Ms. Tova Rich: Hi. My name is Tova Rich. Thank you for allowing me to speak with you all today.

I am the owner of Family Matters Caregivers Inc. here in Ontario since 2003, and Family Matters Caregivers (HK) Ltd. in Hong Kong since 2006.

The reason I wanted to speak to you today is so I can inform you and help you make Bill 210 a successful and effective bill.

For years, I've wanted this industry to be cleaned up, and I'm happy that the Liberal government is finally doing something about it. I am in support of Bill 210 and its intentions. I feel caregivers need to be protected. Ontario families need to be protected as well. I run two reputable agencies, one here and one overseas, and I truly feel that agencies such as mine play an essential role for both employers and caregivers alike.

There are players in this industry, just as there are in every industry, that have some very questionable business practices, and it would be a shame and quite catastrophic for many Ontarians if the actions of a few unscrupulous businesspeople were responsible for bringing down the entire live-in caregiver program, especially since agencies such as mine offer such valuable services to employers, employees and the individuals whom the care is for.

In order for Bill 210 to be successful, it needs amendments. Families need quality control, and caregivers need our help to educate, inform and train them for a new life in Canada. Both sides need representation, and we provide an invaluable service.

The reason families call us is because we personally meet, screen, qualify and train every single one of our Family Matters candidates. The reason candidates seek us out and enrol in our seminars in Hong Kong is because they have heard through various means—their friends and family members, mostly—that we are honest, trustworthy, straightforward and empathetic, and offer real support to them, along with real jobs with real families in Ontario.

On average, our travels take us to Hong Kong every 12 weeks. While there, we have two main jobs to complete.

One is to find the best possible candidates that we can for our employers back in Ontario. We do quite a bit of screening. This benefits the caregivers as well. If they don't qualify, we won't take them on. A lot of caregivers have paid huge sums of money, as you've heard today—\$8,000, \$10,000—and I suspect it was because it was the only way that they could get into Canada. Reputable agencies probably wouldn't have represented them in the first place.

The other is to educate, inform and offer professional development and immigration advice to the candidates. Examples of professional development include resumé preparation, interview skills, and teaching labour laws in Ontario. Once they get to Ontario, we put them through first aid and CPR and a cooking class. We also take them

through the process of how the live-in caregiver program and employment standards work. Along with our Hong Kong representative, we teach them and guide them on how to process their paperwork at the Canadian embassy. Without both of these services that we offer, candidates will not have the skills necessary to succeed in their new lives in Canada.

Furthermore, they will likely be denied at the embassy or the process will be very drawn out on account of the fact that the process of submitting their paperwork and application is not an easy one. It is confusing for many. Mistakes are made regularly. This in itself will cause a huge backlog at Canadian embassies abroad.

As an aside to answer your question from earlier, it is a fact that release upon arrival has virtually disappeared. I see it, and other agency owners see it. The Canadian embassy in Hong Kong is processing visas much quicker these days. It is actually a very fast process now due to the decrease of fraudulent applications.

We take on the responsibility of making sure that the documents have no mistakes and the applications are complete. Most applicants who work in Hong Kong have very little time off, if any, and getting this application to the Canadian embassy, as well as completing the required medical exam and police clearance, is virtually impossible. They have no choice but to hire someone to facilitate this all on their behalf.

Without reputable agencies such as Family Matters, their only option will be to pay exorbitant amounts to a local agency to handle it for them. In our experience, these local agencies lack the integrity to treat these caregivers fairly and honestly. In case you're interested, I brought with me the Sun, which is the Filipino newspaper in Hong Kong. If you open up to any given page, it is full of local agencies saying, "Come to Canada." They just don't know who to choose. There are so many choices, and most of these just take advantage of them.

Family Matters is in a unique position. We are one of two Canadian companies that are licensed to operate an employment agency in Hong Kong. We therefore wear two hats: We operate as a local agency in Hong Kong, and we are able to assist with every step that needs to be taken on that side. Plus we are the Canadian agent, so we do everything that needs to be done on this side.

As you will learn today, there are about 28 hours of work to be done per candidate in Hong Kong and about 23 hours of work to be done for each family in Ontario. It is not an easy process; it is not a fast process; it is a lengthy process. The value of us being both agencies is huge. It gives both the employer and the caregiver peace of mind knowing that the same people are handling all aspects of the hire. We don't pass the duties off to anyone else. As a result, people put enormous trust in us knowing we will be very involved every step of the way. Candidates do not have to take their chances with agencies in Hong Kong; they have the option of using a reputable Canadian agency.

If Bill 210 is passed as written, two major things will happen. First, the quality of caregivers coming into this

province will decline. We won't be in a position to travel abroad and personally interview the candidates. Employers won't have our expertise and experience to guide them through the process. If we can't meet them personally, how can we assure our employers that they are hiring the best candidate for their family? We have been a credible filter for our employers. No employer is going to agree to pay the entire fee without any commitment on the caregiver's side. There is no guarantee that the caregiver will stay in their job. Families that live in rural areas or have three or more children or a family with a special needs child will be most at risk, as these are more challenging jobs to fill.

The caregiver can arrive and, within days, quit the job for an easier one in a more central location. It was believed that they have a 24-month guarantee. That's not, in fact, correct. They have to complete 24 months within a 36-month period, and it's cumulative, so they do not have to stay with one employer at all.

Currently, we provide maps to the caregiver to discuss the exact location where she's going to be working and the proximity to Toronto. When we're in Hong Kong, we really encourage our candidates to let us know if there's a location that they want to work in or they don't want to work in because their sister's here or their cousin or their friend. We really encourage them to tell us where they want to work because they need to be happy too. It's their life too. Because we're working for both sides, we need all parties to be happy for the success of the placement. As a result, we very rarely have caregivers leaving their jobs shortly after they arrive. They are prepared and they are invested.

1650

If Bill 210 is passed without amendments, the financial risk will simply be too big, and most of our employers can't afford it in the first place. The majority of our employers are middle-class, regular families with two incomes.

According to StatsCanada, the average for a typical family is \$862.64 per week. Paying a caregiver a gross wage for 40 hours a week at \$10 an hour is \$1,600 a month. That's half of the family's income. Many of my clients work just so they can pay their caregivers because they love their job and they want to be working mothers or fathers, and this will penalize them, frankly.

Currently, our employers and the caregivers both pay us a fee. The employers pay us the placement portion and the employees pay for all the additional services that I described earlier, plus way more. The skills that they learn—

The Chair (Mr. Bas Balkissoon): You have one minute left.

Ms. Tova Rich: One minute?—will stay with them no matter what type of job they end up doing in the future.

Second, the caregiver's best interests will no longer be looked after. Our services are invaluable to the caregivers. They want to be trained. They want to better themselves. They want to be informed. They come to Canada with confidence, knowing the expectations of the

job and knowing that they have someone looking out for them. They were trained before they got here, before they started their job. They have invested in themselves and are much more likely to stay in the job that they have committed to.

If Bill 210 is passed as written, caregivers will still come to Ontario. The numbers will be considerably lower, but they will still come. They will still need to hire someone to help them come, and their only options will be the unscrupulous agencies, both here and abroad, that will still be operating. The ones here will simply go underground. Many are underground to start with.

The Chair (Mr. Bas Balkissoon): Thank you very much. I have to move on.

The next deputant is Ronnie Sacks—not here.

TAX4NANNY

The Chair (Mr. Bas Balkissoon): Tax4Nanny: Gila Ossip.

Ms. Gila Ossip: I'm here, but I just wasn't exactly ready. I just have to put my computer on. I thought I had 10 minutes. Sorry.

The Chair (Mr. Bas Balkissoon): Take your time. Okay. You have 10 minutes. Please state your name for the record.

Ms. Gila Ossip: Oh, my computer's not open and my speech is on it.

The Chair (Mr. Bas Balkissoon): I'm just giving you the rules. Tell me when you're ready to start.

Ms. Gila Ossip: Thank you. It's open; it's coming. Sorry.

The Chair (Mr. Bas Balkissoon): Okay. Half a minute.

Ms. Gila Ossip: Give me 30 seconds. It's a Mac.

The Chair (Mr. Bas Balkissoon): In the meantime, you have 10 minutes. If you leave time at the end of your presentation, we'll allow questions.

Ms. Gila Ossip: Good afternoon. My name is Gila Ossip. I'm a chartered accountant and a certified financial planner who has over 11 years of accounting experience. I'm also the founder and president of Tax4Nanny. I started Tax4Nanny 18 months ago to provide payroll services for employers of caregivers, including record-of-employment preparation, payroll source deduction calculations, T4 filing and registering employers with the CRA and WSIB.

The employer is the person who pays for my services, not the caregiver. No caregivers are ever charged by Tax4Nanny. Employers use my service to make sure that their caregiver tax remittances and the resulting T4 are correct. Having a proper T4 is a key requirement for the caregiver to apply for permanent resident status.

I am not a recruiter, nor do I run a recruiting agency. My business is a natural extension of the services provided by the reputable recruiting agencies. In my business, there are a number of issues that I have seen with employers and caregivers that you may not have heard about today: firstly, an employer that does not

provide caregivers with a pay stub; an employer not providing a caregiver with a T4 statement of remuneration; an employer paying their nanny on a cash basis and not paying tax, unbeknownst to the caregiver; and finally, an employer not providing a record of employment to the caregiver, denying them the ability to apply for a new work permit, which is of particular concern when the caregiver is trying to leave a challenging work environment.

Specifically, I am recommending the following: Bill 210 needs to reinforce the section with respect to the employer's duty of record-keeping, section 14. In my experience, families that hire a live-in caregiver do not perceive themselves as business owners and therefore have limited knowledge about what is expected of them under the Employment Standards Act.

Under section 14, the Ontario government should add certain standards between the employer and the caregiver. These standards would include:

- the employer must provide caregivers with a pay stub, based on a sample pay stub that could be provided to them;

- the employer must pay the caregiver with a proper paper trail for payment, such as cheque, direct deposit or issuing a receipt for cash payment; and

- finally, the creation of a new government database, linked to the WSIB and CRA systems, to identify employers of domestic workers.

For example, if a government database is available with a list of domestic worker employers, automatic communication to employers would be possible for any important changes affecting foreign workers—for example, minimum wage increases or maximum charges allowed for room and board. An employer registry is part of the Manitoba legislation.

Overall, these amendments would go a long way to make sure that the proper record-keeping between the employer and caregiver and the government is in place. This would also go a long way to improving the visibility of employment standards with families that employ foreign live-in caregivers.

Bill 210 is very important legislation. Time is needed to get it right. I see where amendments are needed and understand the ripple effect if this legislation were to be passed as written. I strongly believe that if passed as is, the demand for foreign caregivers will go down, resulting in fewer foreign workers being employed, and parents will look for other daycare options for their children.

Parents look to hire a nanny for their children because they want their children to be taken care of in their home. They do not want to leave work if a child is sick or the daycare is closing because of striking workers. Frankly, many people cannot afford private daycares, and there's not enough supply of government-run affordable daycares. Caregivers provide these families with a wonderful option for affordable and loving childcare.

I urge you to please think through the implications of Bill 210. Make the amendments brought forward and delay section 7 coming into force.

The Chair (Mr. Bas Balkissoon): That's it?

Ms. Gila Ossip: That's it.

The Chair (Mr. Kevin Daniel Flynn): Okay. I've got about a minute and a half each. The government side: Mr. Dhillon.

Mr. Vic Dhillon: I just want to thank you for your presentation.

The Chair (Mr. Bas Balkissoon): Mr. Miller.

Mr. Norm Miller: Thank you. You make some interesting recommendations that seem to make a lot of sense. Do we have a copy of your presentation and also a copy of the amendments you're recommending?

Ms. Gila Ossip: Yes, I will get them to you.

Mr. Norm Miller: If we could get a copy of those, that would be beneficial.

Ms. Gila Ossip: Sure. That would be great.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Yes, thank you very much. I disagree with you around section 7, and we are planning on putting forward amendments based on what the nannies have come forward with. But, having said that, I really liked your suggestion for section 14 and immediately sent that off to our researchers as a possible amendment. So we will act on that. I think it's really important that employers keep records, and I agree that a lot of employers do not keep records. They don't really see foreign live-in caregivers as employees in that sense. So thank you very much.

The Chair (Mr. Bas Balkissoon): Thank you very much.

Ms. Gila Ossip: Can I make one comment?

The Chair (Mr. Bas Balkissoon): Sure. You have time.

Ms. Gila Ossip: I guess the reason why section 7 is so important to me is that I rely on reputable agencies to work, and I also believe that the reputable agencies drive the demand for foreign workers. So if reputable agencies can't act in their business that they're currently in, then there won't be any employers that are willing to pay. And the people that work with reputable agencies are the employers who want to pay correctly. They are the people who hire me to make sure that things get done. If you go through a fly-by-night agency, they tell you they sit 30 hours a week and do this and pay \$200 in taxes. There's no client of mine who pays under \$450 a month in taxes.

1700

Ms. Cheri DiNovo: Can I just respond? We've got a little bit of time.

The Chair (Mr. Bas Balkissoon): I've got time.

Ms. Cheri DiNovo: Unless pigs have wings, I really don't think there's going to be lowering of demand for foreign-trained caregivers unless, again, we have a really solid government-provided daycare system. So I think really—I'm quite willing to bet on this—there will still be reputable agencies and you'll still probably do very well.

I came from the agency business where no applicant was ever charged a fee and that's true of 90% of the agency business in this province, quite frankly. Appli-

cants are not charged. It's only in this area and executive recruitment. Most agencies don't charge applicants fees. So I want to reassure you that I think you're probably okay.

Ms. Gila Ossip: Personally, I would never have hired someone to take care of my new child after going back to work for a year had they not met that person in Hong Kong. To me, that was huge.

The Chair (Mr. Bas Balkissoon): Thank you very, very much and thank you for your presentation.

SELECT NANNIES INC.

The Chair (Mr. Bas Balkissoon): We'll move to the last deputant, Select Nannies Inc. Eva Kristina Knof. I hope I pronounced your last name correctly.

Ms. Eva Knof: Yes, you did. My name is Eva Knof—

The Chair (Mr. Bas Balkissoon): I've got to give you the rules. Ten minutes, state your name and if you save time we'll have questions.

Ms. Eva Knof: I'm pleased to have the opportunity to speak with you and want to thank you for allowing me to comment on Bill 210.

My name is Eva Knof, and I am a mother of three, a licensed immigration consultant and the owner of Select Nannies Inc., a successful nanny agency with four offices across Canada. Over the past 10 years, I have designed a business model for the placement of overseas caregivers which is very efficient and fair to all parties involved. I am proud to say that my staff and I have always conducted business with the highest ethical standards and integrity.

I'm in full support of Bill 210 but I have several serious concerns.

My main reason for speaking with you today is to ensure that you understand the inner workings of the nanny industry so that you can appreciate the complexity of the placement procedure and the role of each party involved.

Unless you have hands-on experience, it may appear that a caregiver placement is a simple two-step process: the employer gets an LMO from Service Canada, and the caregiver applies for a work permit at the overseas office and hops on the plane. Well, nothing is further from the truth. I have put together a document that explains that there are 99 important steps to placing a caregiver. I hope you have that all in your hands, because I can't read it all due to time constraints today.

Generally, there are three specialists involved in each placement, unless it's a direct hire: the Canadian agent, the overseas recruiter and the licensed immigration consultant. In some cases, one person wears two or three of those hats.

The Canadian agent finds the employers, pre-screens them for qualifications, advertises with the job bank on the employers' behalf, prepares nine different documents for Service Canada and matches the employers with their future caregivers.

The overseas recruiter advertises for applicants, pre-screens them for qualifications and references, and assists

them with the preparation of their profiles. Because of the hardship that the overseas caregivers experience in their host countries, they are often completely dependent on the assistance of overseas recruiters to get them to Canada in situations—and this is particularly in Hong Kong and Taiwan—where the employer will hold their passport, where the employer does not speak the same language as the caregiver, or where the caregiver does not have a day off to represent herself in front of the visa office.

The licensed immigration consultant assists the caregiver with the submission of the work permit application and ensures that the submitted work permit package is accurate and complete, making the job of the visa officer easier. He also communicates with the embassy in regard to the application progress.

In 2004, the Immigration and Refugee Protection Act was amended to state that immigration consultants can, for a fee, advise and represent potential immigrants before Citizenship and Immigration Canada.

Canadian immigration is not only a set of policies, but it's also, in fact, a business and an industry. Law firms, immigration consultants and their employees make up thousands of companies and individuals across Canada who facilitate the immigration process for fees.

As you heard my colleague Mr. Mooney explain, licensed immigration consultants are regulated by the Canadian Society of Immigration Consultants and must comply with very strict admission requirements and meet educational and language standards as set forth by the society.

According to my calculations, and I've been in business long enough to know, a competent Canadian agent spends 23 hours on each placement, an overseas recruiter spends 20 hours and an immigration consultant spends eight hours. That is 51 work hours per placement, given that it's done properly, and that still does not guarantee success. The total cost of this work has been estimated at over \$6,000 per placement. The employer cannot be expected to carry the entire cost, because it is prohibitive, and the employer does not have a guarantee the caregiver will in fact remain with him upon arrival.

I would like to address this particularly to Ms. DiNovo. I'm not sure what kind of agency she was running; however, I, in my conscience, would not run an agency and charge a client, a family, over \$6,000 for my services. These are clients who are single mothers, who are widows and widowers, clients who are elderly, who are living on social support and have no other options. They are looking for live-in caregivers as a viable and feasible option to child care because they can't afford to put their children in daycare; they have three or four kids, and it's cheaper to have a live-in nanny. I just wanted to clarify.

Ms. Cheri DiNovo: Cheaper?

Ms. Eva Knof: It is cheaper. So I do have an issue with—

Ms. Cheri DiNovo: That's the problem.

Mr. Phil Mooney: It's not a problem; it's a fact.

Ms. Eva Knof: It's a fact. The other issue is—

Ms. Cheri DiNovo: It's a problem for the nannies.

Mr. Phil Mooney: No, they're paid the appropriate amount.

Ms. Cheri DiNovo: Anyway, continue.

The Chair (Mr. Bas Balkissoon): Let's keep to the deputation. It's your clock that's running.

Ms. Eva Knof: Well, then, I will—

The Chair (Mr. Bas Balkissoon): Stick to your presentation.

Ms. Eva Knof: Yes. If Bill 210 comes into effect unchanged, the recruiter, who is also an immigration consultant, would not be able to bill for his immigration services, thus contravening his right to charge for services, as is currently allowed by existing legislation.

If Bill 210 comes into effect, I will not be able to carry on my business because I am both a recruiter and a certified immigration consultant. This means that I cannot offer my immigration expertise to a caregiver for whom I have found a job, and must tell her to seek help elsewhere, while exposing her to either bad agents or to well-meaning family members who then give her the wrong advice.

Ironically, when I started my business 10 years ago, I did not charge any fees to caregivers, and was often questioned by them as to whether I was a legitimate agency, because according to them, no one in their right mind offers free services. Once I became licensed and began to charge for my services, my credibility was no longer questioned and none of my caregivers ever told me that my fees were excessive. I need to point out that charging sensible fees to caregivers has never been an issue, while charging excessive fees, or fees for jobs that are not real, is an issue.

I hold in my hand appendix 2, which contains eight visa refusals of caregivers who applied at an overseas visa office without the expertise of an immigration consultant or a recruitment agency. They all qualified for the program and reapplied using the services of an experienced and qualified agent, and all are happily working in Canada today. With the help of an agency they would not have been refused the first time, and could have saved a lot of money, emotional stress and hardship.

In my opinion, the no-fee clause in Bill 210 is an overkill to a situation that can be better remedied by a few amendments. Please consider us as the voice of experience and allow us to assist with the new standards in this industry.

Here are my recommendations:

—Delay section 7 from coming into effect until regulations are created.

—Clearly differentiate between recruitment fees and fees for professional services offered to the caregivers on a voluntary basis.

—Establish a list of services related to recruitment and make it mandatory for the employer to pay for these services.

—Allow overseas recruiters to charge for professional development, as is done in BC and Alberta.

—Allow CSIC members to charge fees for professional services, despite being recruiters.

—Regulate the nanny agency industry by requiring licensing, strict codes of ethics and payment of bonds.

I just wanted to make another comment. I find it very ironic that we have advocates sitting here today on behalf of caregivers who fail to see that Bill 210 will kill the live-in caregiver program. If you have no agencies, you will have no caregivers coming into Canada—or they will be coming in through illegal agencies overseas.

I would also like to protest the fact that only caregiver horror stories were allowed to be heard today, whereas those who were a success, sitting here, sat here in silence. I ask you, where is the fairness here?

The Chair (Mr. Bas Balkissoon): You have less than a minute left.

Ms. Eva Knof: Thank you.

When the recession hit the GTA quite hard in June, I was the one who found these caregivers new jobs, at no cost to them, and housed them in my home, again at no cost to the caregiver. So many other agencies—my colleagues—have done the same thing. What I'm trying to demonstrate here is that most people in our industry are very people-oriented. That's why our agencies are recognized and referred to. We are referred by caregivers to their friends overseas and we are referred by families to other families here in Canada. This is how our business thrives: by having good reputations in both the employer community and the caregiver community. I have many witness testimonies of caregivers who are very happy with the program and our services.

The Chair (Mr. Bas Balkissoon): Thank you for taking the time and presenting to us.

Ms. Eva Knof: Thank you.

The Chair (Mr. Bas Balkissoon): That comes to the end of the deputation list. For members of the committee, the committee will be meeting on Monday, December 7, 2009, for clause-by-clause consideration of the bill. I want to remind everybody that the deadline for filing amendments to the bill with the clerk of the committee shall be 12 noon on Friday, December 4, 2009.

Interjection.

The Chair (Mr. Bas Balkissoon): The deadline for submission of clause-by-clause amendments is 12 noon on Friday, December 4.

Mr. Norm Miller: It's clause-by-clause on Bill 218 tomorrow too—

The Chair (Mr. Bas Balkissoon): And we're meeting on Monday, December 9 for clause-by-clause—

The Clerk of the Committee (Ms. Tonia Grannum): Monday, December 7.

The Chair (Mr. Bas Balkissoon): December 7, sorry. Do we have a time?

The Clerk of the Committee (Ms. Tonia Grannum): Two o'clock.

The Chair (Mr. Bas Balkissoon): At 2 o'clock in the afternoon.

Meeting adjourned.

The committee adjourned at 1713.

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Lundi 7 décembre 2009

Standing Committee on the Legislative Assembly

Employment Protection
for Foreign Nationals Act
(Live-in Caregivers
and Others), 2009

Comité permanent de l'Assemblée législative

Loi de 2009 sur
la protection des étrangers
dans le cadre de l'emploi
(aides familiaux et autres)

Chair: Bas Balkissoon
Clerk: Tonia Grannum

Président : Bas Balkissoon
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Monday 7 December 2009

Lundi 7 décembre 2009

*The committee met at 1406 in room 228.*EMPLOYMENT PROTECTION
FOR FOREIGN NATIONALS ACT
(LIVE-IN CAREGIVERS
AND OTHERS), 2009LOI DE 2009 SUR
LA PROTECTION DES ÉTRANGERS
DANS LE CADRE DE L'EMPLOI
(AIDES FAMILIAUX ET AUTRES)

Consideration of Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000 / Projet de loi 210, Loi visant à protéger les étrangers employés comme aides familiaux et dans d'autres emplois prescrits et modifiant la Loi de 2000 sur les normes d'emploi.

The Chair (Mr. Bas Balkissoon): We'll call the meeting to order of the Standing Committee on the Legislative Assembly. We're here for clause-by-clause consideration of Bill 210, An Act to protect foreign nationals employed as live-in caregivers and in other prescribed employment and to amend the Employment Standards Act, 2000.

First of all, are there any general comments? Ms. DiNovo of the NDP.

Ms. Cheri DiNovo: Thank you, Mr. Chair. I just wanted to say that in general our amendments are made to strengthen rather than weaken the wording of the bill, to expand the definition of "worker" described here beyond the live-in caregiver because, as we have heard, there are many, many other foreign workers who need the protection of this bill, and to tighten up some of the whistle-blowing opportunities and joint and several liability options. Generally, what we're trying to do is strengthen the wording of the bill so that, in fact, it would cover test case Ruby Dhalla's live-in caregiver and not just the fees before hiring or placing a live-in caregiver. That's generally what our amendments are about.

I'm looking forward to hearing from the government generally what their amendments are about. I'm just seeing them for the first time.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: In general, our amendments are also to enhance protection for those employed as care-

givers, but also to protect those legitimate businesses that we heard from that are doing a great service at providing both employment and care and assistance for people looking for caregivers. We did hear from a lot of those legitimate businesses that are concerned that they will be out of business if the bill passes the way it now stands. So our amendments will try to reflect some of the things we heard in public consultations.

The Chair (Mr. Bas Balkissoon): Any further comments?

Mr. Vic Dhillon: Just a general comment that for the most part we heard from live-in caregivers only with respect to this bill, and our amendments will be a good balance in terms of addressing some of the other folks as well. That will be all coming up.

The Chair (Mr. Bas Balkissoon): Okay. We'll move to section 1, subsection 1(1), the first motion, an NDP motion. Ms. DiNovo.

Ms. Cheri DiNovo: I move that the definition of "other prescribed employment" in subsection 1(1) of the bill be amended by striking out "employment in a position or sector that is prescribed for the purposes of paragraph 1 of subsection 3(1)" and substituting "employment referred to in paragraph 1 of subsection 3(1) other than employment as a live-in caregiver."

The Chair (Mr. Bas Balkissoon): Any comments?

Ms. Cheri DiNovo: Again, this is to expand the definition. I recall the moving testimony of a young man here who came over as a live-in caregiver but found himself working doing drywall. This kind of amendment would expand this so that he would still be protected by this bill. If it's not expanded, that young man working doing drywall, where he was supposed to be a live-in caregiver, would not be covered, and that is the plight of many who come over under false pretext.

The Chair (Mr. Bas Balkissoon): Any other comment?

Mr. Vic Dhillon: We won't be supporting this motion because live-in caregivers are among the province's most vulnerable employees. The majority of the comments that we at MOL received during the summer consultations were from live-in caregivers. The scope of the proposed act can be expanded to other employment positions or sectors by regulation-making authority.

The Chair (Mr. Bas Balkissoon): Any other comments?

Ms. Cheri DiNovo: Sorry; I didn't hear what he said.

The Chair (Mr. Bas Balkissoon): Can you just repeat what you said?

Mr. Vic Dhillon: Sure. The scope of the proposed act can be expanded to other employment positions or sectors by regulation in the future.

The Chair (Mr. Bas Balkissoon): Ms. Jones?

Ms. Sylvia Jones: If I understand the parliamentary assistant correctly, he is not opposed to it and would, in fact, support it in regulation. If that is the case, why would you not support this proposed amendment?

Mr. Vic Dhillon: Because, as I said, we heard mainly from the live-in caregiver sector during the consultations we held with respect to this bill, and should it need to be expanded in the future, there is regulation-making authority.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: I just wonder what his response would be to that young man and others who have also provided testimony to the government that their job description changed once they arrived here, even though they were brought over as live-in caregivers. They would not be covered under the definition of this act, so what would you say to them?

Mr. Vic Dhillon: Well, I would say that there is a federal government aspect to the admission of live-in caregivers as well, so if there's a change in the job that they're doing, that's something that would not be in the MOL domain to address. That's something, perhaps, that could be addressed federally.

Ms. Cheri DiNovo: Mr. Chair, I would ask for a recorded vote on this.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested.

Ayes

DiNovo.

Nays

Delaney, Dhillon, Dickson, Norm Miller, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Section 3, motion number 2, is now redundant because it's relevant to motion number 1.

Section 3, motion number 3: government motion, Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 3 of the bill be amended by adding the following paragraph:

"4. Every person who acts on behalf of an employer described in paragraph 2 or a recruiter described in paragraph 3."

This amendment would ensure that the prohibitions on collecting fees and employer reprisals would apply also to those who are acting on behalf of employers and recruiters.

Mr. Norm Miller: Sorry; I didn't hear the last thing he said.

Mr. Vic Dhillon: This amendment would ensure the prohibitions on collecting fees and on employer reprisals would apply also to those who are acting on behalf of employers and recruiters.

The Chair (Mr. Bas Balkissoon): Any further comment?

Mr. Vic Dhillon: It's technical in nature.

The Chair (Mr. Bas Balkissoon): Further debate? I'll take the vote on government motion number 3. All in favour?

Mr. Vic Dhillon: Can I clarify? I just want to clarify that I move that subsection 3(1) of the bill be amended, instead of what I stated earlier.

The Chair (Mr. Bas Balkissoon): Okay, I'll take the vote. All in favour of government motion number 3? The motion carries.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Section 5, subsection 5(2), government motion number 4.

Mr. Vic Dhillon: I move that the definition of "protective measure" in subsection 5(2) of the bill be amended by striking out "employer or recruiter" and substituting "employer, recruiter or person acting on behalf of an employer or recruiter."

This amendment would ensure that there could be no contracting out of the proposed legislation in relation to requirements and prohibitions that apply to the persons acting on behalf of an employer or recruiter.

The Chair (Mr. Bas Balkissoon): Any debate? We'll take the vote on government motion number 4. All in favour? Against? The motion carries.

Shall section 5, as amended, carry? Carried.

Subsection 6(1), motion 5: government motion, Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 6(1) of the bill be amended by striking out "section 19" and substituting "section 20".

This subsection is being amended to ensure a correct cross-reference in the proposed act.

The Chair (Mr. Bas Balkissoon): Any comments or debate?

Ms. Sylvia Jones: Could you just clarify for me what section 19 had in it previously?

Mr. Vic Dhillon: Certainly. If I could have somebody from the ministry?

The Chair (Mr. Bas Balkissoon): Please come forward and state your name for the record, and you can answer the question.

Mr. Joel Gorlick: Joel Gorlick from the Ministry of Labour. It's just a correction to the section number. The wrong section number was referred to. Nothing in those sections has changed that is referred to here. It previously said section 19, and we're replacing that with section 20. It was an incorrect reference.

The Chair (Mr. Bas Balkissoon): Okay. We'll take the vote on government motion number 5. All in favour—

Ms. Cheri DiNovo: Mr. Chair, a question.

The Chair (Mr. Bas Balkissoon): Sorry. Ms. DiNovo.

Ms. Cheri DiNovo: Just a question, and perhaps you can answer it for me too. In looking at the civil remedy section here, obviously further along we have amendments where we'd like to see joint liability between employer and recruiter in terms of the caregiver being able to recoup their losses.

So what you're saying here, really, is that the caregiver still has the option of a civil remedy. This caregiver can still take their employer to court if they can't get the money back from the recruiter in any other way. Is that correct?

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Mr. Joel Gorlick: What I'm saying is nothing from what is currently in section 20 is being changed. Whatever you see there now is as is.

Ms. Cheri DiNovo: That's the gist of the meaning of it, is that correct?

Mr. Joel Gorlick: I would have to get—

Ms. Cheri DiNovo: Do I see a nod of approval? Okay, thank you.

Mr. Joel Gorlick: We have our legal people here. They can—okay.

The Chair (Mr. Bas Balkissoon): We'll take the vote on government motion number 5. All in favour? The motion carries.

Shall section 6, as amended, carry? Carried.

Ms. Cheri DiNovo: We have a motion on section 6.

The Chair (Mr. Bas Balkissoon): That's a new section. We'll move to section 6.1. Motion number 6: NDP, Ms. DiNovo.

Ms. Cheri DiNovo: I move that the bill be amended by adding the following section after section 6:

"Licensing of recruiters

"Prohibition

"6.1(1) No person shall act as a recruiter in connection with the employment in Ontario of a foreign national as a live-in caregiver or in other prescribed employment unless the person holds a licence to do so issued under this act.

"Application for licence

"(2) A person who wishes to act as a recruiter in connection with employment described in subsection (1) may apply to the director of employment standards for a licence to do so.

"Requirement for performance bond

"(3) An applicant for a licence shall post a performance bond or provide another form of financial security, as required by the regulations, as a condition for obtaining and holding a licence.

"Regulations

"(4) The Lieutenant Governor in Council may make regulations establishing a licensing scheme for the purposes of this act and the regulations may provide for the powers and duties of licence holders and the issuance, suspension and revocation of licences."

The Chair (Mr. Bas Balkissoon): Any comments?

Ms. Cheri DiNovo: Yes. This was asked for by virtually everyone who deputed before us; that is, that agencies that are reputable would have no problem getting a licence or a bond and that they should do so. Certainly the caregivers who deputed wanted that as well. It seems to be in line with Bill 139, which the government has already passed about temporary workers, so I would wonder why foreign-trained professionals would be treated any differently than those temporary workers were treated under Bill 139.

The Chair (Mr. Bas Balkissoon): Government side? Mr. Dhillon.

Mr. Vic Dhillon: A licensing regime would create a significant burden and additional cost for recruitment agencies. This would not be in line with Ontario's Open for Business initiative. It could also take some time to establish a licensing regime and for that regime to have a real impact on exploitive recruitment practices.

This bill, if passed, would allow MOL to take strong enforcement action against abusive recruiters once the legislation comes into force.

The Chair (Mr. Bas Balkissoon): Further comments? Mr. Miller.

Mr. Norm Miller: I just have a question for Ms. DiNovo. It was my understanding that a number of the recruiting agencies actually were in favour of this. It's also in place in some other provinces, is that correct?

Ms. Cheri DiNovo: Yes.

Mr. Norm Miller: Which are the other provinces? Do you recall?

Ms. Cheri DiNovo: I believe it's in place in Manitoba. I stand to be corrected on that, but I believe that they ask for licences, in fact, both for the recruiter and the employer, but certainly for the recruiter.

The Chair (Mr. Bas Balkissoon): Any further comment?

Mr. Vic Dhillon: Yes, Chair. I just want to clarify or correct Ms. DiNovo that under Bill 139, no licensing regime was created, just to clarify that fact.

The Chair (Mr. Bas Balkissoon): I'll take the vote on—

Ms. Cheri DiNovo: Could I ask for a recorded vote on this? Recorded vote, please.

Ayes

DiNovo, Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Motion number 7: a PC motion, Mr. Miller.

Mr. Norm Miller: I move that the bill be amended by adding the following section after section 6:

"Registry of employers

"Public registry

“6.1(1) The director of employment standards shall maintain a public registry of persons who employ a foreign national as a live-in caregiver or in other prescribed employment, and the registry shall contain the information required by the regulations.

“Duty to provide information

“(2) A person who employs a foreign national as a live-in caregiver or in other prescribed employment shall give the director the prescribed information for the registry, and shall do so promptly upon hiring the foreign national.”

The Chair (Mr. Bas Balkissoon): Comments?

Mr. Norm Miller: Yes. We heard from some of the people who came before the committee—I think it might have been Tax4Nanny—that this would help to provide more protection for foreign caregivers by making it easier to know who is legitimately in the business.

The Chair (Mr. Bas Balkissoon): Further debate? Ms. DiNovo?

Ms. Cheri DiNovo: Yes. You’ll see, Mr. Chair, that the next motion deals with something like this as well. I would certainly advise voting for this and/or ours, or both, hopefully. Again, it speaks to, as ours does, the vulnerability of the foreign-trained live-in caregiver, a foreign-trained professional in this instance. We might not even know they’re there. The community might not even be aware that they’ve come to the country, that they’re in the employ of anybody, without the requirement of the licensing or registration of employers.

The Chair (Mr. Bas Balkissoon): Further debate? The government side, Mr. Dhillon?

Mr. Vic Dhillon: Again, a registration regime would create an additional burden on employers and would not be in line with Ontario’s Open for Business initiative. The protective measures and enforcement provisions in this bill, if passed, would prevent the exploitation of live-in caregivers by employers and recruiters.

The Chair (Mr. Bas Balkissoon): Mr. Miller?

Mr. Norm Miller: I think what is being proposed is not some huge bureaucracy. It’s just a registry of those who are employing foreign caregivers and it would add to the protection of those foreign caregivers. So, I would ask government members to support it.

The Chair (Mr. Bas Balkissoon): Okay. I’ll take the vote on PC motion 7.

Mr. Norm Miller: A recorded vote has been requested.

Ayes

DiNovo, Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

We’ll move to motion 8, an NDP motion.

Ms. Cheri DiNovo: Thank you, Mr. Chair. Again, it deals with the same issue. One can assume we know how the government is going to vote.

I move that the bill be amended by adding the following section after section 6:

“Licensing of employers

“Prohibition

“6.2(1) No person shall employ in Ontario a foreign national as a live-in caregiver or in other prescribed employment unless the person holds a licence to do so issued under this act.

“Application for licence

“(2) A person who wishes to employ in Ontario a foreign national as a live-in caregiver or in other prescribed employment may apply to the director of employment standards for a licence to do so.

“Requirement for performance bond.

“(3) An applicant for a licence shall post a performance bond or provide another form of financial security, as required by the regulations, as a condition for obtaining and holding a licence.

“Regulations

“(4) The Lieutenant Governor in Council may make regulations establishing a licensing scheme for the purposes of this act and the regulations may provide for the powers and duties of licence holders and the issuance, suspension and revocation of licences.”

Again, as the Tory motion did, this goes into a little bit more detail and asks that the employer post a bond, the reason being, again, as I said, there’s no way of knowing if this person’s even in the country under the present wording of the act.

Secondly, there’s no way of knowing that the employer can pay them. How do we know that the employer is able to pay them, able to cover the costs of them being here for a year or two or however long it takes, unless there’s a bond posted—and particularly for these vulnerable women, mainly, who are isolated one from the other. They may not know or be given their rights under the employments standards code, and this is a way of simply keeping track of their presence in the country.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Dhillon.

Mr. Vic Dhillon: Again, as mentioned during our discussion on motion 6, an employer licensing regime would create an additional burden on employers and would not be in line with Ontario’s Open for Business initiative. The protective measures and enforcement provisions in this bill, if passed, would prevent the exploitation of live-in caregivers by employers and recruiters.

The Chair (Mr. Bas Balkissoon): Further debate? Ms. Jones?

Ms. Sylvia Jones: Just a quick question: How does having a list of people who employ caregivers impede Ontario’s Open for Business?

Mr. Vic Dhillon: Well, it would create a lot more paperwork and—

Ms. Sylvia Jones: It would create protection.

1430

Mr. Vic Dhillon: Yeah, and the good ones would enrol and the bad ones wouldn't. How would you know? It's pretty straightforward.

The Chair (Mr. Bas Balkissoon): Ms. DiNovo?

Ms. Cheri DiNovo: Just to comment that Manitoba has this and is working with it. It seems to be quite successful. In fact, Manitoba, just judging by their economy, seems a little bit more open for business than Ontario does these days with its \$25-billion deficit. Presumably this has not impeded the Manitoba law from either assisting caregivers or allowing folk who want a caregiver to go ahead and hire one.

A recorded vote, please.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested on motion 8.

Ayes

DiNovo, Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Motion 9: PC motion, Mr. Miller.

Mr. Norm Miller: I move that the bill be amended by adding the following section after section 6:

"Licensing of foreign caregiver agencies

"Prohibition

"6.2(1) No person who carries on business as a foreign caregiver agency shall act as a recruiter in connection with the employment in Ontario of a foreign national as a live-in caregiver unless the person holds a licence to do so issued under this act.

"Same

"(2) No individual acting on behalf of a foreign caregiver agency shall act as a recruiter in the circumstances described in subsection (1) unless the agency holds a licence issued under this act.

"Application for licence

"(3) A foreign caregiver agency that wishes to act as a recruiter in connection with employment described in subsection (1) may apply to the director of employment standards for a licence to do so.

"Requirement for a performance bond

"(4) An applicant for a licence shall post a performance bond or provide another form of financial security, as required by the regulations, as a condition for obtaining and holding a licence.

"List of licensees

"(5) The director of employment standards shall maintain a list of licensees and shall post the list on the government website.

"Regulations

"(6) The Lieutenant Governor in Council may make regulations establishing a licensing scheme for the

purposes of this act, and the regulations may provide for the powers and duties of licensees and the issuance, suspension and revocation of licences."

This is in response to many of the groups that came before the committee in the public consultations. Many of the features are in other jurisdictions and would offer more protection and, I think, transparency for foreign caregivers.

The Chair (Mr. Bas Balkissoon): Further debate? Ms. DiNovo?

Ms. Cheri DiNovo: Again, just about every deputant asked for this. I can't imagine any legitimate business resisting getting the minimum requirement of a licence to conduct business or posting a performance bond, which again, it seems to me, is a minimum requirement for a legitimate business, and it helps sort them out from the bad apples.

I just don't get it. I mean, both the Progressive Conservatives and the NDP heard this from the deputants and wanted to act on it. I don't understand the government's reticence. It certainly is not an onerous task. It's done for many other businesses, and again it's just a check and balance for the industry.

A recorded vote, too.

The Chair (Mr. Bas Balkissoon): Further debate? The government side, Mr. Dhillon.

Mr. Vic Dhillon: As mentioned before, a licensing regime would create a significant burden on recruitment agencies. This would not be in line with Ontario's Open for Business initiative. It would take some time to establish a licensing regime and for that regime to have a real impact on exploitive recruitment practices. This bill, if passed, would allow MOL to take strong enforcement action against abusive recruiters once the legislation comes into force. The protective measures and enforcement provisions in this bill, if passed, would prevent the exploitation of live-in caregivers by employers and recruiters.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Norm Miller: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested on motion 9.

Ayes

DiNovo, Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

We'll move to motion 10: subsection 7(1.1), a PC motion. Mr. Miller.

Mr. Norm Miller: I move that section 7 of the bill be amended by adding the following subsections:

"Exceptions for certain professional fees

“(1.1) Despite subsection (1), a recruiter who carries on business outside Canada may charge a fee for professional development services, but only if the services were optional for the foreign national.

“Same

“(1.2) Despite subsection (1), a recruiter who is an immigration consultant may charge a fee for professional services provided in that capacity, but only if the services were optional for the foreign national.”

By way of explanation, I think the danger with Bill 210 is that there are a lot of legitimate businesses out there—many of which we heard from—that are providing very useful services, both protecting those people who want to come to the country and provide caregiver services, and providing great services for the families that need a caregiver. The danger with this bill is that many of these legitimate businesses will be put out of business, in its current form. We heard from many different groups coming before the committee. Since the public hearings I’ve received many, many testimonials from both caregivers and the families that were sent, I hope, to all committee members. Not allowing them to charge some fees, in effect, would drive the whole business underground and make the situation worse. This is just towards trying to protect those legitimate businesses that are doing a good job and providing services that are very much needed in the province.

The Chair (Mr. Bas Balkissoon): Further debate? Ms. DiNovo.

Ms. Cheri DiNovo: I’m afraid, absolutely not. We are going to definitely vote against this motion. It’s a slippery slope towards situations that we’ve seen in other provinces, where all sorts of fees can be justified. Unfortunately, the concept of optionality for the foreign national is often abused; we’ve heard tales of people signing contracts that they didn’t understand and that basically placed them in the position of an indentured servant. So we would definitely argue against this amendment.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Delaney.

Mr. Bob Delaney: I definitely do not support this. I have heard numerous times, from some of the social services agencies where we are, that what often happens in the programs they offer—which are free to the public—the recruiters show up and drop off someone who they have charged money to in order to simply drop them off at a program that’s offered at public expense already. We fully intend to vote against this.

The Chair (Mr. Bas Balkissoon): Further debate? There being none—

Mr. Norm Miller: Recorded vote.

The Chair (Mr. Bas Balkissoon): A recorded vote is requested on motion 10.

Ayes

Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, DiNovo, Ramal.

The Chair (Mr. Bas Balkissoon): Motion defeated. We move to motion 11, an NDP motion. Ms. DiNovo.

Ms. Cheri DiNovo: Perhaps I could do—numbers 11 and 13 kind of go together, because one says that “I move subsection 7(2) of the bill be struck out,” and then something else be added in, so it’s kind of weird to vote on one without voting on the other. Perhaps we could do the two together. Is that possible?

The Chair (Mr. Bas Balkissoon): Just a second. I’ve got to check with—we have to deal with them separately.

Ms. Cheri DiNovo: Okay, fair enough. So then it’s very simple: I move that subsection 7(2) of the bill be struck out, the reason simply being the confusing language may allow other fees. We want to strengthen that language to make sure that there are no other hidden fees charged to the foreign-trained national.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Dhillon.

Mr. Vic Dhillon: This bill currently contains regulation-making authority to permit the government to have the flexibility to deal with new situations and issues that did not exist at the time of the drafting of this legislation. The proposed amendment would remove this flexibility.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I’ll take the vote on motion 11. All in favour? Against? Motion defeated.

Motion 12, a PC motion: Mr. Miller.

Mr. Norm Miller: Yes. I move that section 7 of the bill be amended by adding the following subsection:

“Restriction

“(2.1) Subsection (1) has no effect before a regulation is made under subsection (2).”

1440

We heard from many of the people who came before the committee who were concerned about section 7. They’d like it to be slowly implemented and they’d like consultation with industry before it is put into effect. That’s what this amendment would accomplish.

The Chair (Mr. Bas Balkissoon): Further debate?

Ms. Cheri DiNovo: Again, we in the NDP would vote no. We do not want to see the language softened or left for regulation. In fact, we want to see it strengthened, as you will see in our next amendment.

The Chair (Mr. Bas Balkissoon): Mr. Dhillon?

Mr. Vic Dhillon: We will not be supporting this motion because an exemption to a prohibition against charging fees would allow recruiters to indirectly recover recruitment costs through, for example, excessive fees charged for other services.

Mr. Norm Miller: I think what the people in the companies and the individuals who came before this committee were looking for was just for the government to take its time to get it right and to work with them so that they don’t inadvertently put out of business

legitimate businesses that are doing a fine job here in the province of Ontario. If the government doesn't want to take the time and listen to those people, I guess it has the majority to do so.

The Chair (Mr. Bas Balkissoon): Any further debate? None?

Mr. Norm Miller: Recorded vote.

Ayes

Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, DiNovo, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

We'll move to motion 13: NDP motion. Ms. DiNovo.

Ms. Cheri DiNovo: I assume the government is going to vote against this, but I want to put the amendment before the table anyway and have it voted on in a recorded way. This was an amendment suggested by the Workers' Action Centre, by the nanny-caregiver associations—by all the stakeholders, in fact.

I move that section 7 of the bill be amended by adding the following subsection:

"Joint and several liability

"(3) If a recruiter directly or indirectly charges a fee in contravention of subsection (1), the recruiter and the employer, if any, with whom or for whom the recruiter acted in connection with the foreign worker's employment are jointly and severally liable for any payments required under this act that relate to the contravention."

The Chair (Mr. Bas Balkissoon): Further comments?

Ms. Cheri DiNovo: The problem here is about collecting. If the live-in caregiver has a complaint, and it's a legitimate one, against a recruiter and the recruiter all of a sudden disappears, which is extremely likely with some of those more fly-by-night companies, and all she's left with is the employer, that's the only person she could conceivably collect from.

I understand that the government sees this happening in the civil courts but I don't think that is realistic for someone who has no money, who may have language issues. The route for collection of that illegal fee should be more direct, so that's why this is such an important amendment.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Vic Dhillon: This bill, if passed, would hold recruiters responsible for any prohibitive fees they may charge. The proposed amendment would make employers jointly liable with the recruiters for violations of the bill even if the employers knew nothing about the recruiters' practices. Most employers are working mothers and fathers who know nothing about the recruitment business, so it's unfair to make them responsible for recruiters' violations.

The Chair (Mr. Bas Balkissoon): Any further debate?

Ms. Cheri DiNovo: Recorded vote, please.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested. I'll take the vote on motion 13.

Ayes

DiNovo.

Nays

Delaney, Dhillon, Dickson, Johnson, Jones, Norm Miller, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Shall section 7 carry? Carried.

We'll move to section 8. Motion 14: Ms. DiNovo.

Ms. Cheri DiNovo: We're going to hear more of the same here.

I move that subsection 8(2) of the bill be struck out. And more to follow.

The Chair (Mr. Bas Balkissoon): Further comments? Any debate? Mr. Dhillon?

Mr. Vic Dhillon: We won't be supporting this. Regulation-making authority gives the government the flexibility to deal with new situations and issues that did not exist at the time of drafting this legislation.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I'll take the vote on motion 14. All in favour? Against? The motion is defeated.

Motion 15: Ms. DiNovo.

Ms. Cheri DiNovo: This is why we wanted it removed and an amendment made.

I move that section 8 of the bill be amended by adding the following subsection:

"Joint and several liability

"(3) If an employer directly or indirectly recovers a cost from a foreign national or other person in contravention of subsection (1), the employer and the recruiter, if any, who acted in connection with the foreign worker's employment by the employer are jointly and severally liable for any payments required under this act that relate to the contravention."

In other words, again, it's trying to help the caregiver to get her money back. Without some added teeth, it's almost impossible for her to get her money back, especially if the company that recruited her ceases to exist. Since they don't have to get a licence, it would be very easy for them to disappear.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Dhillon.

Mr. Vic Dhillon: This bill, if passed, would prohibit employers from recovering recruitment costs from live-in caregivers, and we will not support this motion.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I'll take the vote on motion 15.

Ms. Cheri DiNovo: Recorded vote, please.

Ayes

DiNovo.

Nays

Delaney, Dhillon, Dickson, Johnson, Jones, Norm Miller, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Shall section 8 carry? Carried.

Motion 16, section 8.1: Ms. DiNovo.

Ms. Cheri DiNovo: I move that the bill be amended by adding the following section after section 8:

“Prohibition against reduced employment conditions

“8.1 No employer shall change the terms and conditions of a foreign worker’s employment as a live-in caregiver or in other prescribed employment as provided for in the employment contract if the change would result in a reduction in his or her wages or working conditions.”

The Vice-Chair (Mr. Bas Balkissoon): Further comments?

Ms. Cheri DiNovo: Yes, I go back to some of the deputants who wanted to come over as caregivers and ended up working as drywallers or whatever else. At least, with this amendment, we’re protecting them, saying that if the conditions are changed, at least their salaries shouldn’t be, because, in fact, that was the understanding that brought them here. Anyone can imagine if, all of a sudden, the terms of your salaries are switched once you take the job. This should be considered absolutely unacceptable, not to mention just for live-in caregivers, but for anybody. This was suggested by the Workers’ Action Centre, by live-in caregivers, by legal aid clinics, and just about every one of our deputants wanted this amendment.

A recorded vote is requested, Mr. Chair.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Dhillon?

Mr. Vic Dhillon: I appreciate Ms. DiNovo’s concerns, but the change in wages and the other issues mentioned would be more appropriately dealt with under the federal government, as that’s where the wages and the job titles are assessed when the foreign live-in caregiver is examined at an overseas visa post. That would be more in line with the Department of Human Resources and Skills Development Canada, so we will not be supporting this.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I’ll take the vote on motion number 16. All in favour? Against? The motion is defeated.

Shall section—oh, I’m moving a little too quickly here. Shall section 9 carry? Carried.

We’ll move to section 10, motion 17, a government motion: Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 10(1) of the bill be amended by adding the following clause:

“(b.1) files a complaint with the ministry under this act;”

This amendment would protect a live-in caregiver from employer reprisals if he or she files a complaint with the MOL. The amendment would also be consistent with the relevant provision in the Employment Standards Act regarding the prohibition of reprisals. The ESA sets out the minimum standards that employers and employees must follow. It balances the rights of employees with the appropriate responsibilities for employers and establishes an effective enforcement regime to ensure compliance.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I’ll take the vote on motion number 16, a government motion. All in favour? Against?

Ms. Sylvia Jones: Motion 16 or 17?

The Chair (Mr. Bas Balkissoon): Motion 17; sorry. A vote on government motion 17. All in favour? Against? The motion carries.

Ms. Sylvia Jones: You almost got one, Cheri.

The Chair (Mr. Bas Balkissoon): Thank you for that. I’m getting a little teary-eyed here.

Motion 18, a government motion: Mr. Dhillon.

1450

Mr. Vic Dhillon: I move that subsection 10(2) of the bill be amended by adding the following clause:

“(b.1) files a complaint with the ministry under this act or the Employment Standards Act, 2000;”

As mentioned during discussion on motion 17, this amendment would protect a live-in caregiver from recruiter reprisals if he or she filed a complaint with the MOL. The amendment would be consistent with the relevant provisions in the Employment Standards Act. The Employment Standards Act sets out the minimum standards that employers and employees must follow. It balances the rights of employees with appropriate responsibilities for employers and establishes an effective enforcement regime to ensure compliance.

The Chair (Mr. Bas Balkissoon): Further debate?

Ms. Sylvia Jones: One question to the parliamentary assistant: Are you not concerned that by having two separate routes for complaint there could be opportunity for a delay in getting that complaint reviewed? Or that in fact you’re setting yourself up for concerns with the Auditor General because you’ve set up two separate paths for the same complaint?

Mr. Vic Dhillon: Which two separate paths would you be referring to?

Ms. Sylvia Jones: Well, filing a complaint with the ministry, or the Employment Standards Act. You’ve got two separate routes that you can take.

Mr. Vic Dhillon: The Employment Standards Act is within the ministry.

Ms. Sylvia Jones: Why are you separating them in the subsection?

Mr. Vic Dhillon: It should be “of,” not “under” this act.

Ms. Sylvia Jones: Perhaps the policy people—

The Chair (Mr. Bas Balkissoon): You've got to take it as it's printed. Somebody from the ministry, can you provide an explanation? Please state your name for the record.

Mr. John Hill: John Hill.

The Chair (Mr. Bas Balkissoon): Go ahead.

Mr. John Hill: There are not two separate routes. What subsection 10(2) is concerned with is recruiters. You could have a recruiter taking reprisal action against a foreign national because they exercised rights or filed a complaint under this act or because that foreign national has filed a complaint under the Employment Standards Act. The Employment Standards Act doesn't apply to recruiters. It only applies to employers, so that's why we need this here.

Ms. Sylvia Jones: Thank you for the clarification.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I'll take the vote on motion 18 of the government. All in favour? Against? The motion carries.

Page 19, motion 19, NDP: Ms. DiNovo.

Ms. Cheri DiNovo: This does somewhat the same thing that the government was doing, only in a little bit more detail.

I move that section 10 of the bill be amended by adding the following subsection:

"Example: reprisal by forced repatriation

"(2.1) For example and without limiting the generality of subsections (1) and (2), an employer or person acting on the employer's behalf intimidates or penalizes a foreign national if the employer or person takes steps, or omits to take steps, that could result in the repatriation of the foreign national without his or her consent because the foreign national did anything described in clause (1)(a) to (e) or clause (2)(a) to (e)."

The Chair (Mr. Bas Balkissoon): Further comments? Go ahead.

Ms. Cheri DiNovo: Yes. It expands upon this problem that foreign nationals and live-in caregivers have, of course, which is that they're most vulnerable around their immigration status. They're most concerned about complaints or actions that would impede that status. It makes the language a little bit stronger and more particular to that fear that was raised over and over again by our deputants.

The Chair (Mr. Bas Balkissoon): Further debate? Government side, Mr. Dhillon.

Mr. Vic Dhillon: We will not be supporting this motion. This proposed amendment is redundant. The anti-reprisal provisions of the bill would already cover these situations.

The Chair (Mr. Bas Balkissoon): Any further debate? There being none, I'll take the vote on motion 19 of the NDP. All in favour? Against? The motion is defeated.

Shall section 10, as amended, carry? Carried.

Shall section 11 carry? Carried.

Motion 20, PC motion: Mr. Miller.

Mr. Norm Miller: I move that the bill be amended by adding the following section after section 11:

"Employer's duty re Employment Standards Act, 2000

"11.1(1) A person who employs a foreign national as a live-in caregiver or in other prescribed employment shall comply with the Employment Standards Act, 2000.

"Same

"(2) Without limiting the generality of subsection (1), the employer shall keep the records required by the Employment Standards Act, 2000 for each pay period for a foreign national, including records about the wage rate, the gross amount of wages for the pay period and how it was calculated, the amount and purpose of each deduction from wages and the net amount of wages paid to the foreign national for the pay period."

We heard from various people who came before the committee, including, I believe, those who are providing accounting services, just how important good records are for the caregivers, particularly things like having a paper trail for further steps that are required for them as they move to become citizens in many cases. So that's where this comes from.

The Chair (Mr. Bas Balkissoon): Further debate?

Ms. Cheri DiNovo: Yes. We in the New Democratic Party agree with this. In fact, you'll see the next amendment is very similar. I certainly thought it was a very helpful and positive suggestion from one of the deputants who is in the business of helping employers with their tax forms. It speaks, again, to the fact that the employer, as an employer of a live-in caregiver, like any other employer, has to keep a paper trail, has to keep records. I think this is, for many people who employ live-in caregivers, a new thought. Again, it's important. We will be supporting this, as we will be supporting our own motion on the issue, which is next up.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Vic Dhillon: This amendment is redundant, as employers of live-in caregivers are already covered by the ESA and must follow minimum standards as set out in the act.

The Chair (Mr. Bas Balkissoon): Any further debate? There being none, I'll take the vote on motion number 20.

Mr. Norm Miller: Recorded vote.

Ayes

DiNovo, Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, Johnson, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

Section 14, motion 21: Ms. DiNovo.

Ms. Cheri DiNovo: I move that section 14 of the bill be amended by adding the following subsection:

"Same, employment records

“(1.1) The employer shall record the information and retain the documents specified in sections 15 (records) and 15.1 (record re vacation time and vacation pay) of the Employment Standards Act, 2000 with respect to the foreign national.”

The Chair (Mr. Bas Balkissoon): Comments?

Ms. Cheri DiNovo: Yes, and I appreciate the government's comments. Of course they are expected to do this under the law, but the reality is that we've heard time and time again from the deputants that they don't, that it is difficult to get their tax returns done, that there's little information given to them and there are few records made available to them in some instances. That is, again, why we think we need specific wording in this act. I understand the government's position, but still, because our deputants asked, because the stakeholders asked, and because I think they have a point, we put this forward.

The Chair (Mr. Bas Balkissoon): Further debate?

Mr. Vic Dhillon: Again, the amendment is redundant, as employers of live-in caregivers are already covered by the ESA and must follow minimum standards as set out in the act, including standards related to recordkeeping.

The Chair (Mr. Bas Balkissoon): Any further debate?

Ms. Cheri DiNovo: Recorded vote, please.

The Chair (Mr. Bas Balkissoon): A recorded vote has been requested on motion 21.

Ayes

DiNovo, Jones, Norm Miller.

Nays

Delaney, Dhillon, Dickson, Johnson, Ramal.

The Chair (Mr. Bas Balkissoon): The motion is defeated.

Shall section 14 carry? Carried.

Shall section 15 carry? Carried.

Shall section 16 carry? Carried.

Motion 22, government motion, section 16.1.

Mr. Vic Dhillon: I move that the bill be amended by adding the following section after the heading “Liability of Directors”:

“Restricted application of ss. 17, 18

“16.1(1) Sections 17 and 18 do not apply with respect to an individual described in subsection 80(2), (3) or (4) of the Employment Standards Act, 2000.

“Application to certain shareholders

“(2) Sections 17 and 18 apply to a shareholder who is a party to a unanimous shareholder agreement to the extent that the agreement restricts the discretion or powers of the directors to manage or supervise the management of the business and affairs of the corporation in relation to duties and liabilities under this act.”

1500

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Vic Dhillon: Yes. Our rationale for this is that this amendment would exempt directors of not-for-profit corporations from liability for the illegally charged fees or illegally recovered costs. The amendment would also be consistent with the relevant provisions in the ESA. The ESA sets out the minimum standards that employers and employees must follow. It balances the rights of employees with appropriate responsibilities for the employers and establishes an effective enforcement regime to ensure compliance.

The Chair (Mr. Bas Balkissoon): Further debate? Ms. DiNovo.

Ms. Cheri DiNovo: Just a question, actually for clarification. So what I'm hearing is, this is basically to exempt not-for-profits from this section. Is that correct?

The Chair (Mr. Bas Balkissoon): Please state your name for the record.

Mr. John Hill: John Hill. Specifically, it would exempt directors of not-for-profit corporations. The Employment Standards Act refers to corporations incorporated under the Corporations Act, which is Ontario's not-for-profit corporations statute, and the corresponding federal legislation. It also covers directors of colleges and health professionals, and also similar corporations with not-for-profit purposes incorporated under other jurisdictions.

Ms. Cheri DiNovo: So, in other words, Pura's organization, the caretakers' association, would be exempt.

Mr. John Hill: I wouldn't want to comment on specific organizations, but charitable organizations, not-for-profit bodies.

Ms. Cheri DiNovo: Can I just ask the question, then, what's to prevent a now for-profit recruitment firm from reincorporating as a non-profit and not taking profits but just upping their directors' salaries? Would they then get out of this entire bill?

Mr. John Hill: A not-for-profit corporation is prohibited from operating for profit and any profit that is incidentally made has to be devoted to the purposes of the corporation, which must be not-for-profit. The corporations legislation does not prohibit reasonable remuneration for the directors, but any scheme of the sort you're suggesting I believe would be prohibited.

The Chair (Mr. Bas Balkissoon): Any further debate? No? I'll take the vote on motion 22. All in favour? Against? The motion carries.

Shall section 17 carry? Carried.

Shall section 18 carry? Carried.

We'll move to motion 23, Ms. DiNovo.

Ms. Cheri DiNovo: Yes. Again, this deals with firming up some of the protection. I move that section 19 of the bill be amended by adding the following subsection:

“Limitation, contravention of the Employment Standards Act, 2000

“(6) A complaint regarding a contravention of the Employment Standards Act, 2000 in relation to a foreign national who is employed as a live-in caregiver or in other prescribed employment may be filed no later than

three and one half years after the contravention, despite subsection 96(3) of that act.”

So it essentially allows live-in caregivers to complain about employment standards violations for as long as this bill allows them to complain about recruitment fees.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Dhillon.

Mr. Vic Dhillon: The current limitation period for filing a complaint under the ESA is reasonable. A longer time period raises investigation and evidence issues. Bill 210 provides for a three-and-a-half year limitation period for filing a complaint under this act to take into account the unique circumstances of foreign nationals working as live-in caregivers.

The Chair (Mr. Bas Balkissoon): Any further debate?

Ms. Cheri DiNovo: So are they going to support this or not?

Interjection.

The Chair (Mr. Bas Balkissoon): There being none, I'll take a vote on motion number 23.

Ms. Cheri DiNovo: Could I ask a question then? Here we're giving them an extended period of time to recoup costs regarding recruitment fees, but presumably the complaints as they come forward might also include employment standards violations. One would think that might be part of the package. So what the government is saying is that on the employment standards violations they're out of luck but on the recruitment fees it's okay? I don't understand the rationale behind one and not the other. Anybody?

Mr. Vic Dhillon: No further comment.

The Chair (Mr. Bas Balkissoon): There being no comments, we'll take the vote on motion number 23. All in favour of motion 23? Against? The motion is defeated.

Ms. Cheri DiNovo: Recorded vote, please.

The Chair (Mr. Bas Balkissoon): The vote is already taken and counted.

Ms. Cheri DiNovo: I just wasn't given the option to ask for a recorded vote.

The Chair (Mr. Bas Balkissoon): I don't believe so. It's carried. I asked the question, I took the vote, and everybody put their hands up.

Ms. Cheri DiNovo: Suffice to say that the record shows that every Liberal voted against this. Thank you.

The Chair (Mr. Bas Balkissoon): That's fine. Shall section 19 carry?

Mr. Joe Dickson: A point of clarification.

The Chair (Mr. Bas Balkissoon): Mr. Dickson.

Mr. Joe Dickson: Chair, in the several decades that you and I have spent on all the various councils, that was always a permissible vote. Even though a mandatory count was taken, you can ask for a recorded vote after the count. Maybe the rules here are different, but that's certainly standard procedure anywhere else.

The Chair (Mr. Bas Balkissoon): Our procedures are different here.

Mr. Joe Dickson: They're different here?

The Chair (Mr. Bas Balkissoon): Yes.

Mr. Joe Dickson: I never knew that.

The Chair (Mr. Bas Balkissoon): Because I've already ruled on the vote, I can't go back.

Mr. Joe Dickson: You're the boss.

The Chair (Mr. Bas Balkissoon): Shall section 19 carry? Carried.

Shall section 20 carry? Carried.

Shall section 21 carry? Carried.

Shall section 22 carry? Carried.

The Chair (Mr. Bas Balkissoon): We'll move to motion number 24, a government motion. Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 23(2) of the bill be amended by striking out “may make an order that the fees be repaid to the foreign national” and substituting “may order the recruiter or the person to pay the amount of the fees to the director of employment standards in trust.”

The rationale for this—

The Chair (Mr. Bas Balkissoon): The motion that is printed reads otherwise. Do you want to read it again?

Mr. Vic Dhillon: The whole motion? Okay.

The Chair (Mr. Bas Balkissoon): Take your time.

Mr. Vic Dhillon: I move that subsection 23(2) of the bill be amended by striking out “may make an order that the fees be repaid to the foreign national” and substituting “may order the recruiter or other person to pay the amount of the fees to the director of employment standards in trust.”

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Vic Dhillon: The amended subsection would be consistent with the relevant provisions of the ESA. The ESA sets out the minimum standards that employers and employees must follow. It balances the rights of employees with appropriate responsibilities for employers and establishes an effective enforcement regime to ensure compliance.

The amended subsection would allow the ministry to order the repayment of fees to either the live-in caregiver or to the director of employment standards in trust for the live-in caregiver.

The Chair (Mr. Bas Balkissoon): Further debate? There being none, I'll take the vote on motion number 24. All in favour of motion 24? Against? The motion carries.

Motion 25: government motion, Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 23(3) of the bill be amended by striking out “may make an order that the costs be repaid to the foreign national” and substituting “may order the employer to pay the amount of the costs to the director of employment standards in trust.”

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Vic Dhillon: Again, the amended subsection would be consistent with the relevant provisions of the ESA. The ESA sets out the minimum standards that employers and employees must follow. It balances the rights of employees with appropriate responsibilities for the employers and establishes an enforcement regime to ensure compliance.

The amended subsection would allow the ministry to order the repayment of fees to either the live-in caregiver or to the director of employment standards in trust for the live-in caregiver.

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The Chair (Mr. Bas Balkissoon): Further debate? There being none, I'll take the vote on motion 25. All in favour of motion 25? Against? Motion carries.

Government motion 26: Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 23(7) of the bill be amended by striking out "orders a corporation to repay fees or costs or to pay compensation" and substituting "finds that a corporation has contravened section 7 or 8."

The Chair (Mr. Bas Balkissoon): Further comments?

Mr. Vic Dhillon: This subsection is being amended to reflect the fact that, in some cases, such as when a corporation is bankrupt, an order cannot be issued to a corporation without a court's permission. The amendment will enable the MOL to attempt to collect payment of fees or costs from a bank or corporation without issuing an order against a corporation. The amended subsection would be consistent with the relevant provisions of the ESA.

The Chair (Mr. Bas Balkissoon): Any further debate? There being none, I'll take the vote on motion 26. All in favour? Carried.

Motion 27: government motion.

Mr. Vic Dhillon: I move that subsection 23(8) of the bill be amended by striking out "an order requiring any payment to a foreign national" at the end and substituting "an order requiring payment to the director of employment standards in trust."

The amended subsection would be consistent with the relevant provisions of the ESA. The ESA sets out the minimum standards that employers and employees must follow. It balances the rights of employees with the appropriate responsibilities for employers and establishes an effective enforcement regime to ensure compliance.

The Chair (Mr. Bas Balkissoon): Any further debate? There being none, I'll take the vote on motion 27. All in favour of motion 27? Against? That motion carries.

I'll take the vote on section 23, as amended. Shall section 23, as amended, carry? Carried.

Shall section 24 carry? Carried.

Shall section 25 carry? Carried.

Government motion 28: Mr. Dhillon.

Mr. Vic Dhillon: I move that subsection 26(2) of the bill be amended by striking out "Subsections 113(2) to (4)" at the beginning and substituting "Subsections 113(2), (3)."

This section is being amended to remove the reference to a subsection of the ESA that has been repealed by Bill 139.

The Chair (Mr. Bas Balkissoon): Any further debate? There being none, I'll take the vote on motion 28. All in favour of motion 28? Against? That motion carries.

Shall section 26, as amended, carry? Carried.

Shall section 27 carry? Carried.

Shall section 28 carry? Carried.

Shall section 29 carry? Carried.

Shall section 30 carry? Carried.

Shall section 31 carry? Carried.

Shall section 32 carry? Carried.

Shall section 33 carry? Carried.

Shall section 34 carry? Carried.

Shall section 35 carry? Carried.

Shall section 36 carry? Carried.

Shall section 37 carry? Carried.

Shall section 38 carry? Carried.

Shall section 39 carry? Carried.

Shall section 40 carry? Carried.

Shall section 41 carry? Carried.

Shall section 42 carry? Carried.

Shall section 43 carry? Carried.

Shall section 44 carry? Carried.

Motion 29, government motion: Mr. Dhillon.

Mr. Vic Dhillon: I move that clause 45(1)(a) of the bill be amended by adding "and has not applied for a review of that order" after "under section 17".

Again, the amended subsection would be consistent with the relevant provisions of the ESA. The ESA sets out the minimum standards that employers and employees must follow. It balances the rights of employees with the appropriate responsibilities for employers and establishes an effective enforcement regime to ensure compliance.

The Chair (Mr. Bas Balkissoon): Any further debate? Mr. Miller.

Mr. Norm Miller: I would just like to get on the record that it's unfortunate that the government has chosen not to listen to all the various groups that came before us, including those people looking to strengthen protection for caregivers and also the many legitimate businesses that are doing a good job in the province of Ontario. The government seems determined not to listen to them and, in fact, make it very difficult for them to stay in business in the province of Ontario, the net effect of which will be to just create more underground businesses and not protect caregivers at all.

The Chair (Mr. Bas Balkissoon): Further debate? Ms. DiNovo.

Ms. Cheri DiNovo: Just in summary, I would say, on behalf of all the caregiver organizations—first of all, a big thank you to them. They did a lot of groundwork here, but also they sought these amendments to strengthen this bill. It's unfortunate that the government saw fit not to strengthen the bill as, again, asked for by the very caregiver organizations that had deputed. As such, it's a step forward but not nearly the legislation one would have hoped for.

The Chair (Mr. Bas Balkissoon): Further debate? Mr. Dhillon.

Mr. Vic Dhillon: I think it's a little bit rich for the official opposition to be stating what they've stated because I would think they hold a world record in time allocations from when they were in government. So I just wanted to get that on—

Ms. Sylvia Jones: We didn't make a reference to time allocation.

Mr. Norm Miller: We didn't make a reference to time allocation.

Mr. Vic Dhillon: Circumventing people or members in the House from making their views heard on many things—I think it is related, so it's a little bit rich, to say the least again. I just wanted to get that on record.

The Chair (Mr. Bas Balkissoon): Further debate?

Ms. Sylvia Jones: As a point of clarification, what we were referring to was that all of the amendments that we brought forward were as a result of the deputations that we heard and were presented to the entire committee. It is unfortunate that they were not listened to because I think they took a lot of care to improve the working conditions of caregivers in Ontario. This bill does nothing to move that forward.

The Chair (Mr. Bas Balkissoon): There being no further debate, I'll take the vote on motion 29. All in favour of motion 29? Against motion 29?

Mr. Khalil Ramal: Which motion?

The Chair (Mr. Bas Balkissoon): Government motion 29. Against? The motion carries.

Shall section 45, as amended, carry? Carried.

Shall section 46 carry? Carried.

Shall section 47 carry? Carried.

Shall section 48 carry? Carried.

Shall section 49 carry? Carried.

Shall section 50 carry? Carried.

Shall section 51 carry? Carried.

Shall section 52 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 210, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? So done.

That's it. This meeting is adjourned. Thank you all very much.

The committee adjourned at 1516.

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Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)
Ms. Cheri DiNovo (Parkdale–High Park ND)

Also taking part / Autres participants et participantes

Mr. Joel Gorlick, Ministry of Labour
Mr. John Hill, Ministry of Labour

Clerk / Greffière

Ms. Tonia Grannum

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Ms. Laura Hopkins, legislative counsel

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First Session, 39th Parliament

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Official Report of Debates (Hansard)

Wednesday 17 February 2010

Journal des débats (Hansard)

Mercredi 17 février 2010

Standing Committee on the Legislative Assembly

Organization

Comité permanent de l'Assemblée législative

Organisation



Chair: Bas Balkissoon
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLYCOMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Wednesday 17 February 2010

Mercredi 17 février 2010

The committee met at 1303 in room 228.

ORGANIZATION

The Chair (Mr. Bas Balkissoon): We'll call the meeting of the Standing Committee on the Legislative Assembly to order on Wednesday, February 17, 2010.

The order of business: The first item is organization, appointment to the subcommittee on committee business. Mr. Delaney.

Mr. Bob Delaney: Thank you, Chair. I move that Mr. Prue replace Mr. Tabuns on the subcommittee on committee business.

The Chair (Mr. Bas Balkissoon): Any discussion? All in favour? Carried.

COMMITTEE BUSINESS

The Chair (Mr. Bas Balkissoon): The next item of business is the draft committee report pursuant to standing order 111(b). Any discussion, comments? Shall the draft report pursuant to standing order 111(b) be adopted? All in favour? Carried.

Shall I present the committee's report to the House? Agreed.

Mr. Bob Delaney: Chair, may I request that in other business we have a brief discussion on two items? Item number one is the committee's participation in the July National Conference of State Legislatures meeting, and item number two is a review of the report done some time ago on technology in the precinct, pursuant to the discussion that we were just having before the meeting started.

The Chair (Mr. Bas Balkissoon): Okay. As the clerk has advised on the NCSL conference, the only thing we know right now is the date. We normally write a letter to the House leader when we receive the full invitation. I'm happy to at least include it in the discussion at our next meeting so all members are aware of it. We'll bring all the material that we have on it up to date the next time we meet.

Under the other item, do you want to discuss it today, or would you like to—if I remember correctly, it's in the hands of the Speaker. Would you like to invite him back?

Mr. Norm Miller: Would we like to invite the Speaker back?

The Chair (Mr. Bas Balkissoon): To tell us where it's at.

Mr. Norm Miller: Yes, Mr. Chair, I think it's time to do that. I know we spent a fair amount of time a few years ago working on the report to do with technology in the precinct. I think it's safe to say the House leaders at that time weren't exactly open to ideas of change. That may have changed now.

I will also note that on recent pre-budget consultations, I know that two of the three PC members, one being myself, made good use of laptops on that and found it extremely useful for being able to note what the presenters had said and not lose it on scraps of paper.

I will also mention that at least one of our members, one of the PC members, Mr. Shurman, brought the issue up yesterday with me, asking about the use of laptops in the actual chamber and suggesting that it would be of benefit.

So I think it is time to revisit this, whether it's the use of wi-fi in committee rooms or the actual use of laptops in the chamber itself. If the way to deal with it is to ask the Speaker to come to a meeting and perhaps to review the report we've already done, or discuss it, I'd certainly be in favour of that.

The Chair (Mr. Bas Balkissoon): Any other comments? Mr. Delaney?

Mr. Bob Delaney: I'm sorry. Why don't we go to Mr. Prue first.

The Chair (Mr. Bas Balkissoon): Oh, sorry, Michael. Mr. Prue.

Mr. Michael Prue: I was just going to say that generally in my caucus we are opposed to the use of laptops in the chamber because it's too open to abuse.

The Chair (Mr. Bas Balkissoon): What about here?

Mr. Michael Prue: I don't think that at committee anybody really cares. But in the chamber, people can be passing you notes and all kinds of stuff and it's—

Interjection.

The Chair (Mr. Bas Balkissoon): I think the issue is also here, because in the report it was suggested to use it here, but I don't think the wi-fi network is available in here. You can use your laptop today, but you have to have one of those Rogers red rocket wireless things.

Mr. Michael Prue: No, no. And again, I had no difficulty on the finance committee with Norm using his laptop. Nobody raised it; nobody cared. But if he starts using it in the Legislature, bells will go off.

The Chair (Mr. Bas Balkissoon): Well, I hear you. Mr. Delaney.

Mr. Bob Delaney: Two points to make: I'm open to a discussion of the use of the technology in the Legislature, and I'll leave it at that, without suggesting a conclusion.

With regard to committee rooms, I think the committee should consider the fact that the only way to get Internet access on a machine that we are allowed to bring in here is to have a Bell or Rogers USB connection, which strikes me as duplicative at best, wasteful at worst, in that we already have the ability to deliver the signal here. It strikes me as pointless to pay for the same thing twice when all we need to do is to extend a wi-fi signal into the committee rooms and any other obvious places that are not now served by a wi-fi signal.

The Chair (Mr. Bas Balkissoon): Okay. Anyone else?

I just want to clarify: At our next meeting, whenever it is, we'll have on the agenda the NCSL conference, which is in July. Hopefully, we'll have more information by then.

The next item: Is it clear with everyone and are all agreeable that we just invite the Speaker to tell us where the whole project is at and bring us up to speed?

Mr. Bob Delaney: Chair, you mentioned the words "whenever it is." May I suggest that the committee empower you to call such a meeting specifically for these purposes no later than a month from now to have resolved these issues, particularly the one with regard to the use of technology?

The Chair (Mr. Bas Balkissoon): I will take that under advisement.

Mr. Bob Delaney: Thank you. Actually, I'd like to make that a motion, that the Chair bring in the Speaker. I'd like to actually move that the Chair bring in the Speaker.

The Chair (Mr. Bas Balkissoon): We will invite the Speaker.

Mr. Bob Delaney: Okay.

The Chair (Mr. Bas Balkissoon): The idea of a month, I'd rather leave that to the Chair.

Mr. Bob Delaney: Fair enough.

The Chair (Mr. Bas Balkissoon): Mr. Ramal?

Mr. Khalil Ramal: Just a question for the members from the NDP caucus and the Conservative caucus: I

guess they have no objections to having them in committees and everywhere in the building except the House, right? Is that what I took—

The Chair (Mr. Bas Balkissoon): That's what I think he said.

Interjection.

Mr. Khalil Ramal: Oh, I see.

Mr. Norm Miller: I don't presume to speak for our whole caucus at this stage, but I know some members of caucus expressed an interest in being able to use laptops in the House. But I think that's what we could discuss, without trying to decide what the end point of the discussion will be.

Mr. Rick Johnson: Just to clear up what Norm said: Except for probably Mr. Bradley, everybody in the House has a BlackBerry, which in effect is a mini-laptop anyway.

The Chair (Mr. Bas Balkissoon): BlackBerrys are not allowed, legally.

Mr. Rick Johnson: So if there's anything we could do to move to a paperless—the option where we could have agendas and things like that come up on the screen and save some of the paper would be a good thing.

The Chair (Mr. Bas Balkissoon): Okay. Mr. Delaney, you had another comment?

Mr. Bob Delaney: Mr. Prue made a comment on the predisposition of his caucus toward the use of computers in the House. Mr. Johnson accurately noted that we already have a very powerful computer that sits in the palm of our hand which we use in the House. At the time that the committee deliberated on this, and I think it was the 2005-06 time period, the compromise we were at the time discussing prohibited the use of technology during routine proceedings but okayed it during debates.

The Chair (Mr. Bas Balkissoon): That was the recommendation?

Mr. Bob Delaney: That was, if I recall, essentially the recommendation.

The Chair (The Chair (Mr. Bas Balkissoon): We'll bring everything back at the next meeting. The clerk will provide you with a copy of the report and everything else.

Everybody okay with that? Okay. Meeting adjourned.

The committee adjourned at 1311.

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